

1 THE WITNESS: Um, no. They have to have some
2 familiarity with the product or service, um, you know. You
3 can learn that but you would need to have some familiarity
4 of it.

5 THE COURT: Do you wish to follow-up, Ms. Clement?

6 MS. CLEMENT: No, your Honor.

7 THE COURT: Mr. Reid, do you wish to follow-up?

8 MR. REID: No more questions, your Honor.

9 THE COURT: All right. May we excuse this witness at
10 this time?

11 MS. CLEMENT: Yes, we may.

12 MR. REID: Yes, your Honor.

13 THE COURT: Thank you very much. You're excused.

14 THE WITNESS: Thank you.

15 THE COURT: Who is our next witness?

16 MS. CLEMENT: Melissa Gratiot.

17 THE COURT: Good afternoon, Ms. Gratiot. If you would
18 please come forward to our witness stand, which is up here.
19 And when you get there, put your water bottle down on the
20 stand, raise your right hand, and face the clerk.

21 THE CLERK: Do you solemnly swear that the testimony
22 you are about to give in the cause now pending before this
23 Court will be the truth, the whole truth, and nothing but
24 the truth?

25 THE WITNESS: Yes.

26 THE CLERK: You may have a seat.

27 Can you state your name and spell it for the record?

28 THE WITNESS: Melissa Gratiot, G-r-a-t-i-o-t, and the

1 first name is M-e-l-i-s-s-a.

2 THE CLERK: Thank you.

3 MS. CLEMENT: Thank you, your Honor.

4 TESTIMONY OF

5 MELISSA GRATIOT, Witness called on behalf of the Plaintiffs,

6 DIRECT EXAMINATION

7 By LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of
8 the Plaintiffs:

9 Q Ms. Gratiot, can you please tell the jurors how you
10 came to be, um, an employee of Emeritus?

11 A I found an ad in the paper, in the Auburn Journal, and
12 so I applied for the position and interviewed and was hired
13 to be their community relations director.

14 Q And can you tell the jurors is the community relations
15 director, is that the person who is, um, the sales and
16 marketing person for the individual building?

17 A Yes.

18 Q And can you tell the jurors what time frame that you
19 worked for Emeritus?

20 A I started Emeritus in mid-July of '08, and my
21 employment ran through April of '09.

22 Q And what facility did you work in?

23 A Emerald Hills in Auburn.

24 Q Did you work at any other Emeritus facilities?

25 A No.

26 Q And prior to working at Emerald Hills had you ever
27 worked in long-term care before?

28 A No.

1 Q When you first started with Emerald Hills did you, um,
2 get training on Title 22 as to what type of residents could
3 be admitted to the facility?

4 A No.

5 Q When you first saw the ad in the paper in the Auburn
6 Journal about this job opportunity, did you do any research?

7 A Yes, I did.

8 Q And can you tell the jurors what kind of research you
9 did?

10 A I researched the company on the Internet to see what
11 kind of company Emeritus was, and then I did drilled down to
12 read about Emerald Hills and the history of the company.

13 Q And, um, on the Internet what was your impression
14 with -- did you -- strike that.

15 Sorry, your Honor.

16 Did you, um, go to the Emeritus Web site?

17 A Yes.

18 Q And what was your impression of the company based upon
19 what you read on the Emeritus Web site?

20 A It seemed like a company that really cared for the
21 seniors, and it seemed like they were in line with the
22 values that I had of, you know, taking care of our seniors.
23 It looked like a company that I would be really excited to
24 work for.

25 Q Did you go to the facility, um, for an interview?

26 A Yes.

27 Q And who interviewed you?

28 A Nancy Cordova.

1 Q And, Ms. Cordova, what was your experience with her
2 when you interviewed with her?

3 A Well, she was very pleasant, and she seemed very
4 excited to be working for the company. And her enthusiasm
5 made me excited to be a possible candidate to work with her.
6 And I was very excited.

7 Q Okay. And, um, you had prior sales experience?

8 A Yes.

9 Q And it just didn't have anything to do with long-term
10 care; true?

11 A No.

12 Q Is that true?

13 A That's true. Sorry.

14 Q That is all right. So when you spoke with Ms. Cordova
15 did you ask her anything about what her expectations were or
16 what Emeritus' expectations were of you in that position?

17 A Um, to do tours, to sit with the families, you know,
18 get them to move into the building, um, if it was a good
19 fit.

20 And my expectations were to be -- to move in -- make a
21 quota of approximately four to five move-ins a month.

22 Q And move-ins, that would be a new resident?

23 A Yes.

24 Q An elder?

25 A Yes.

26 Q And was that who lived at the facility, elder
27 residents?

28 A Yes.

1 Q And did you have any responsibilities with regard to
2 relationship building outside of the facility?

3 A Yes, I did. I -- I was expected to work with the
4 hospitals or fellow retirement communities and nursing homes
5 to, you know, in the event a resident or -- excuse me -- a
6 patient needed assistance from transferring from their home
7 to a retirement community, to build that relationship to
8 hope that they would use Emerald Hills.

9 Q So did you see discharge planners at the hospitals and
10 in nursing homes?

11 A Yes.

12 Q So over the ten months that you worked at Emerald
13 Hills, can you tell us, um, how many regional directors of
14 sales and marketing did you have that you reported to?

15 A I believe there was three in the time I was there.

16 Q And can you tell the jurors -- do you remember who
17 those people were?

18 A My -- the first regional director was Melissa Malek.
19 The second regional director was, um, I believe it was
20 Shamim Wu. And then the third was Liz Breen (phonetic).

21 Q Now, was, um, Shamim Wu, was she exclusive to region
22 one?

23 A No. She was actually in southern California.

24 Q Was it your understanding that she was covering both
25 regions?

26 A Yes.

27 Q And who was the vice president of sales and marketing
28 while you worked at Emeritus?

1 A Angela Neale.

2 Q And then you had, um, you had, um, executive directors
3 too, correct?

4 A I did.

5 Q And Nancy was the first?

6 A Nancy was the first.

7 Q And then who did you have after that?

8 A Rich Lee.

9 Q Okay. And, um, did you ever have any temporary
10 executive directors while, um, the position was vacant or
11 while something was happening before the position would be
12 filled?

13 A When Nancy was no longer with the company one of
14 the executive directors from another community came to
15 manage the building while we were looking for another
16 replacement.

17 Q And was that person Davina Barker?

18 A Yes.

19 Q And was she in the building full-time?

20 A No.

21 Q She had her own building?

22 A She had a building. Hers was in Orangevale.

23 Q Was that Hazel Creek?

24 A Yes.

25 Q And then Rich Lee. Um, when they hired Rich Lee did
26 you -- did you learn from him whether he had any experience
27 in, um, long-term care?

28 A Um, he did not.

1 Q What was your understanding if he had -- did he have
2 an administrator's license when he started?

3 A No.

4 Q What was your understanding of what Mr. Rich Lee's
5 background was?

6 A Um, I -- my understanding was that he was in sales to
7 sell boats.

8 Q And what was your understanding of, um, when Mr. Lee
9 got his license?

10 A During the -- his employment at the very beginning,
11 while Davina was working at our building.

12 Q And who was your, um, regional director of operations
13 when you worked there?

14 A Ronda Castleberg.

15 Q Did you have any other RDO besides Ronda Castleberg?

16 A I don't think so.

17 Q And um, what about nurses. When you first started was
18 there a nurse there in the ten months that you worked there?

19 A Um, yes.

20 Q And who was that?

21 A Peggy Stevenson.

22 Q And after, um, a while did Peggy leave?

23 A Yes.

24 Q And, um, did you get a nurse after that?

25 A Um, we didn't get a nurse. We had a -- a wellness
26 coordinator.

27 Q And who was that?

28 A Kim Moes.

1 Q And what was your understanding of what her licensure
2 was?

3 A I -- I -- I knew she wasn't a nurse.

4 Q Did you understand that she came from another facility
5 as a caregiver, med tech?

6 A Um, I believe -- I know she came from another
7 facility, but I just -- I wasn't quite -- I don't quite
8 remember what she was.

9 Q Okay. And the collaborative team management approach,
10 you were familiar with that from Emeritus?

11 A Yes.

12 Q And the collaborative team when you first started was
13 Nancy, yourself, and Peggy?

14 A Correct.

15 Q And what training did you receive from Emeritus?

16 A For my position?

17 Q Yes.

18 A Sales training.

19 Q Was there a focus of the training, any kind of
20 campaigns they were doing while you were there?

21 A There -- a lot of -- most of it was basically to
22 overcome barriers. Um, so one of the -- one of the
23 campaigns was named "No barriers to sales", um, coming, you
24 know -- coaching to overcome objections from family members.

25 Q Did you attend any, um, meetings, um, outside of the
26 building that were training sessions?

27 A Yes, I did.

28 Q And can you tell the jurors what meetings you attended

1 outside of the building?

2 A I -- I attended a two-day meeting in southern
3 California, and the other two-day meeting was in Tracy.

4 Q Okay. And the southern California meeting, was that a
5 company-wide meeting?

6 A I believe that wasn't the company-wide meeting. That
7 was just for all of the community relations directors and
8 the sales and marketing team.

9 Q Okay. And was there anyone from corporate at that,
10 um, southern California sales and marketing meeting you went
11 to?

12 A The vice president of sales and marketing was there.

13 Q Angela Neale?

14 A Yes.

15 Q And what was the focus of the meeting that you
16 attended with Angela Neale?

17 A Um, sales and marketing, um, making sure that we were
18 being trained to, again, understand any objections from the
19 families, um, to get any sale we can to fill the building,
20 um, any training on any kind of objections we would get, um,
21 just the same kind of sales and training meetings that I got
22 at the -- at both of -- at northern California and southern
23 California.

24 Q Okay. Was there any pressure put on you, um, in these
25 training sessions that you felt about getting money from the
26 residents to close the deal?

27 A Yes. There was a lot of pressure.

28 Q And can you describe for the jurors what that was

1 about?

2 A Well, initially when a potential resident comes in
3 with the family, you know, it's -- sometimes it takes more
4 than one visit for a family to commit to move in, and the
5 pressure that was coming from my management staff was to
6 collect a check, to get that commitment for the move-in
7 before they left.

8 Q Did you attend stand-up meetings in your -- as part of
9 the collaborative team at Emeritus Emerald Hills?

10 A Yes. The meetings were held in my office every
11 morning.

12 MS. CLEMENT: Excuse me, your Honor, I think Alicia
13 marked some exhibits for us.

14 THE COURT: Okay. I may already have them.

15 MS. CLEMENT: I haven't seen them.

16 THE COURT: Let me ask, Terrance, do you know if
17 Alicia put any exhibits in the binders earlier?

18 COURT ATTENDANT: I think she did.

19 THE COURT: Why don't you check and see? Wait. Don't
20 walk away with that from her desk.

21 MS. CLEMENT: Okay. It doesn't have Exhibit 280.

22 THE COURT: They may already be in the binder.

23 MS. CLEMENT: There is nothing in the folder except
24 for the Plaintiff and Defense copy.

25 THE COURT: You don't understand what I'm saying.

26 MS. CLEMENT: Oh, I got you now. Wait to check the
27 binder?

28 THE COURT: Correct.

1 MS. CLEMENT: Okay. Should I go check the one up
2 there? Terrance is doing it.

3 THE COURT: I think Terrance is doing it. I know she
4 put some in mine already. I have it.

5 MS. CLEMENT: Oh, you do? Okay.
6 280, sir.

7 COURT ATTENDANT: You don't have 280 in here.

8 MS. CLEMENT: You don't?

9 THE COURT: Alicia, could you come in, please?

10 COURT ATTENDANT: 281.

11 MS. CLEMENT: Do you have it, Judge?

12 THE COURT: I have it. Apparently the 280 one with
13 the sticker on it.

14 THE CLERK: They are all right here. Here is 280.

15 THE COURT: Do the rest of those need to go in the
16 binder as well?

17 THE CLERK: Yes, Judge. And yours are all in your
18 binder.

19 THE COURT: Thank you.

20 MR. REID: I think there is one we didn't get, your
21 Honor.

22 THE COURT: Which one didn't you get?

23 MR. REID: I have 280 -- well, I was just handed 280
24 and 288.

25 **(Joint Exhibits 280 and 288 were marked for identification.)**

26 MS. CLEMENT: These were for the other witness, but we
27 didn't use them.

28 Q (By MS. CLEMENT) 280, do you have that in front of

1 you?

2 A I do.

3 Q And can you tell us what Exhibit 280 is?

4 A 280 is the flash meeting minutes and it's the form
5 that we filled out every morning when we did our -- our
6 stand-up meeting.

7 Q And is this the form that you utilized when you were,
8 um, at Emeritus in, um, 2008?

9 A Yes, I believe so.

10 MS. CLEMENT: And at this time, your Honor, Plaintiffs
11 would seek to move into evidence Exhibit 280.

12 THE COURT: Is there any objection?

13 MR. REID: No, your Honor.

14 THE COURT: 280 is admitted.

15 **(Joint Exhibit 280 was admitted into evidence.)**

16 MS. CLEMENT: Terrance.

17 Q (By MS. CLEMENT) Okay. Can you take us through this
18 document and tell us what -- who would lead the stand-up
19 meetings?

20 A I would -- I would lead the stand-up meetings, and as
21 we go down we -- I received input from the other staff
22 members where it was pertinent.

23 Q Okay. So, um, when -- when would the meetings start?

24 A About 9:15.

25 Q And where would the meeting be held?

26 A In my office.

27 Q And, um, was there anything, um, any kind of a board
28 or anything you utilized in your office to assist in the

1 meeting, other than this flash meeting minutes?

2 A Yes. I had a white board in my office behind a
3 curtain so that, you know, perspective residents didn't see
4 that because it was for our marketing, um, and we used it to
5 move leads through cold leads to warm leads to hot leads to
6 move-in.

7 Q Okay. And so take us through the top of this,
8 move-ins, apartment numbers, private, semi, and level of
9 care. What is this about?

10 A The first part of it is the move-ins that we were
11 going to be having -- I haven't seen this in a long time.
12 The move-ins that we were going to be having for that month,
13 what apartment number we would assign them to, and then if
14 it was going to be a private room or semi-private, and then
15 what level of care the perspective resident was going to
16 need.

17 Q And what were units?

18 A The apartments that were ready.

19 Q Okay. And could there be, um, a single apartment with
20 two units?

21 A Two potential residents together?

22 Q Well, it's -- it's been -- it's been a confusing topic
23 so we have heard a lot of questions about it and I thought
24 you might be able to answer it.

25 A Okay.

26 Q Units, does that refer to both -- can you tell us what
27 that means?

28 A A unit is --

1 MR. REID: It's asked and answered, your Honor. She
2 said what a unit was. It was --

3 THE COURT: She can respond.

4 THE WITNESS: The available units -- where -- where it
5 says "available units", that was an apartment. And then the
6 "rent ready units" was the apartments that were ready.

7 Q (By MS. CLEMENT) And were there apartments that had
8 more than one bed per resident in it?

9 A There could be, yes.

10 Q And would those beds be called an individual unit or a
11 half a unit?

12 A It would be called a half a unit.

13 Q Okay. So if the apartment just had one bed it would
14 be one unit and if it had two beds it would be a half a unit
15 and a half a unit?

16 A I believe so.

17 Q Okay. And -- okay. Next. Oh, you went too far.
18 There is a little thing in there about respite stay. Sorry,
19 Erik.

20 Can you -- do you see that "respite stays", what was
21 that all about?

22 A Respite stay was a room that we had that was furnished
23 for potential residents. If they needed -- let's say the
24 family was going on vacation, they had no one to take care
25 of their loved one, they could come stay at Emerald Hills.
26 Or if a potential resident wasn't quite committing, we could
27 let them come and stay, just to try it out. So it was just
28 a temporary available apartment.

1 Q Okay. And, um, was that something you were supposed
2 to sell as well?

3 A Yes.

4 Q Can you take this down now, Erik? Thank you.

5 Move-outs and discharges, was this part of the daily,
6 um, stand-up meeting?

7 A Yes, it was.

8 Q And what was the emphasis as it related to move-outs?

9 A Well, we would meet to find out if there was residents
10 that were potentially on the list to be moved out and to
11 find out why and if there was any way -- if there was
12 anything that we could do to change their mind unless they
13 needed an extra level of care, but to discuss what the
14 move-out was about.

15 Q Okay. And on that topic of extra level of care, did
16 you have -- based upon your experience in the stand-up
17 meetings, did you hear, um, Peggy and Nancy talk about using
18 Hospice as a means of keeping residents in the facility so
19 they wouldn't -- so they could "close the back door"?

20 A Oh, yes.

21 Q And then down here it's, um, "deposits". What's that
22 about?

23 A Residents that were not moved in yet but were
24 committing to move in, to put a deposit to hold whatever
25 apartment they wanted. You know, I would usually give them
26 a couple of different options, if they wanted to go, you
27 know, what side of the building. So I would sometimes, if
28 it was available, let them pick what apartment they would

1 want.

2 Q Okay. Erik.

3 And then the -- what's this next section about,
4 "potential resident"?

5 A Again, residents that were going to be potentially
6 moving in. Maybe they haven't quite committed to us yet but
7 they would be considered hot on the white board. And, you
8 know, we would list their family member's name, any comments
9 that we would have, and then any next steps that we would
10 take to try to get them to commit to moving in to the
11 community.

12 Q And what's the "royal treatment" in reference to?

13 A How do I put this? It was just an extra something
14 that we could do. It could be sending a bouquet of flowers
15 or buying -- having them come in for a special lunch or just
16 something that, you know, that we knew that the resident had
17 an interest in. Let's say a resident, let's say, wanted --
18 enjoyed bingo. We would invite them in for a game of bingo.
19 Just something to show them that we are taking an interest.

20 Q Did you have a budget for, um, buying flowers and
21 gifts and things for hot leads?

22 A Yes.

23 Q Now, "resident care log for move-out/CARE alert", what
24 was that about?

25 A This is -- this was the area that the nurse Peggy
26 would use to talk about residents that were going to be
27 moving out. I don't remember what the acronym for CARE
28 meant, if that was an acronym or not, but why we are losing

1 a resident, what was wrong.

2 Q Okay. Thank you, Terrance.

3 THE COURT: Okay. I think we are going to stop now
4 and take our afternoon break.

5 MS. CLEMENT: Okay.

6 THE COURT: Ladies and gentlemen, leave your notebooks
7 on the chairs. Remember the admonitions. Let's be back
8 ready to go, um, at 3:30.

9 And I am going to need you back on the stand at 3:30,
10 okay?

11 THE WITNESS: Uh-huh.

12 THE COURT: All right. Thank you.

13 Okay. We are in recess.

14 MS. CLEMENT: Thank you, Judge.

15 (Recess.)

16 (Court Reporter switch.)

17 ---oOo---

18

19

20

21

22

23

24

25

26

27

28

1 **(The following proceedings were then had in open**
2 **court, in the presence of the jury.)**

3 THE COURT ATTENDANT: Come to order. Department 45
4 is again in session. The Honorable Judge Judy Hersher
5 presiding.

6 You may be seated.

7 Q. (By MS. CLEMENT) Can you look at Exhibit Number
8 288.

9 Do you see that?

10 A. Mm-hmm.

11 Q. Is that "yes"? You have to say out loud "yes."

12 A. I'm sorry. Yes. Yes.

13 Q. It's okay. Everybody does it.

14 And is this -- "Exploring Economic and Holiday
15 Objections," is this a sales tool that Emeritus provided
16 you in your job?

17 A. Yes, it was.

18 MS. CLEMENT: At this time, your Honor --

19 Q. (By MS. CLEMENT) And this was provided to you when
20 you first started working for the company?

21 A. Yes.

22 MS. CLEMENT: At this time, your Honor, the
23 plaintiffs would seek to move into evidence Exhibit 288.

24 THE COURT: Any objection?

25 MR. REID: No, your Honor.

26 THE COURT: 288 is admitted.

27 **(Joint Exhibit Number 288 was received into**
28 **evidence.)**

1 Q. (By MS. CLEMENT) And was the purpose to your
2 understanding of this sales tool to help you overcome
3 families' objections?

4 A. Yes.

5 Q. And this "Safely Somewhere," that was to -- that was
6 a marketing slogan from Emeritus?

7 A. Yes, it was.

8 Q. Okay. And this two-page document lists out common
9 objections families can have, and it gave you suggestions
10 on how to overcome them, true?

11 A. True. Yes.

12 Q. Okay. So one of them would be the current economy
13 is so bad, it just seems risky right now. True?

14 A. Yes.

15 Q. And then they gave you a lot of different things to
16 -- of how to deal with that, true?

17 A. Yes.

18 MS. CLEMENT: Next, Erik.

19 Q. (By MS. CLEMENT) And then also on the first page,
20 it says: When the family's giving you some pushback, you
21 want to ask them, *What was the reason that brought you*
22 *through our doors? Was it medication concerns, multiple*
23 *falls, etcetera?* Remind the customer what urgent risk it
24 was that initially prompted them to seek out assisted
25 living.

26 Is that what you were trained on?

27 A. Yes, I was.

28 Q. And when you went to those sales training meetings,

1 were you trained that there -- you had to create a sense of
2 urgency in the families?

3 A. Yes, I was.

4 MS. CLEMENT: Okay. Erik, can you go to the next
5 section. This is on the second page.

6 Q. (By MS. CLEMENT) And at the bottom, this was all
7 about cost increases and how to talk to family members
8 about there's -- why there's an annual rate increase, true?

9 A. Yes.

10 Q. And why the annual rate increase would be higher
11 than the cost of living increases that people are used to
12 seeing in the paper and things like that, true?

13 A. Yes.

14 Q. And so Emeritus told you to tell family members when
15 they were balking at these rate increases that cost of
16 living increases don't factor in the costs associated with
17 being a regulated industry which must meet specific labor
18 and care standards, true?

19 A. True. Yes.

20 Q. *And at Emeritus, we're committed to keeping the*
21 *promise to you that we made when you moved in, that we will*
22 *take care of you or your loved one to the best of our*
23 *abilities. True?*

24 A. Yes.

25 Q. And this is what they told you to tell families who
26 would come back to you after they'd moved in and were
27 concerned about the rate increases and maybe wanted to
28 move out; is that right?

1 A. That's correct.

2 Q. And Emeritus told you to tell these families that
3 this promise means we provide a higher standard of care,
4 true?

5 A. True.

6 MS. CLEMENT: Thank you, Erik.

7 Thank you, Terrance.

8 THE COURT ATTENDANT: Oh you're welcome.

9 Q. (By MS. CLEMENT) Okay. When you -- you remember
10 Joan Boice?

11 A. Yes, I do.

12 Q. Do you remember Maggie Boyce, too?

13 A. I do.

14 Q. And were Joan and Maggie Boyce some of your first
15 sales?

16 A. Yes, they were. Joan -- I believe Joan was my
17 first -- my first sale.

18 Q. And can you look at Exhibit 178. It's up there on
19 the top right. You can just pull that down. And I'll help
20 you get rid of this other document.

21 A. Can I just leave this right here?

22 Q. You can just leave that right there.

23 And Exhibit 178, pages 7 through 14.

24 Are you familiar with those documents? Are those
25 documents that you created, at least in part?

26 A. Yes, I am.

27 **(Joint Exhibit Number 178, pages 7 through 14, was**
28 **marked for identification.)**

1 MS. CLEMENT: Your Honor, at this time the
2 plaintiffs would seek to move into evidence Exhibit 178,
3 pages 7 through 14 only.

4 MR. REID: No objection, your Honor.

5 THE COURT: All right. On Exhibit 178 then, pages 7
6 through 14 only are admitted.

7 **(Joint Exhibit Number 178, pages 7 through 14, was**
8 **received into evidence.)**

9 MS. CLEMENT: Thank you, Judge.

10 Q. (By MS. CLEMENT) Now, Exhibit 178, is this your
11 document that you would use when you would have a new lead?

12 A. Yes, it is.

13 Q. And this is a lead about Mrs. Boice?

14 A. Yes.

15 Q. And her husband, Myron?

16 A. Yes, it is.

17 Q. And do you remember Myron, too?

18 A. I do.

19 Q. And did you first receive a call in July of -- 29th
20 of 2008 from Eric Boice?

21 A. Yes, I did.

22 Q. And did he tell you that -- anything about his mom
23 and dad and about potentially coming to the facility?

24 A. He did. And I wrote some things on the form as I
25 learned about who his parents were and what was important
26 to them.

27 Q. And did you schedule with Mr. Eric Boice and his
28 brother a follow-up meeting?

1 A. Yes, I did.

2 Q. And at that follow-up meeting, did you give them a
3 tour of the building?

4 A. I did.

5 Q. And at that follow-up meeting, did you provide
6 brochures to them?

7 A. I did.

8 Q. And could you turn around and grab that other binder
9 that's open.

10 And starting with the first brochure there, Exhibit
11 Number 6, are you familiar with this brochure?

12 A. Yes, I am.

13 **(Joint Exhibit Number 6 was marked for**
14 **identification.)**

15 Q. (By MS. CLEMENT) Was this one of the brochures that
16 you gave to Eric and Mark Boice when they came for their
17 tour?

18 A. Yes, I did.

19 Q. And can you look at Exhibit Number 7.

20 **(Joint Exhibit Number 7 was marked for**
21 **identification.)**

22 Q. (By MS. CLEMENT) Is Exhibit 7 also a brochure about
23 Emeritus at Emerald Hills that you provided to the -- Mark
24 and Eric Boice?

25 A. Yes, I did.

26 Q. And how about Exhibit 8? Is that also a brochure
27 that you provided to Mark and Eric Boice?

28 A. I did. These were all brochures that were in the

1 brochure packet that went to prospective residents and
2 their families.

3 **(Joint Exhibit Number 8 was marked for**
4 **identification.)**

5 MS. CLEMENT: Okay. At this time, your Honor,
6 plaintiffs would seek to move into evidence Exhibits 6
7 through 8.

8 MR. REID: No objection, your Honor.

9 THE COURT: Six through eight are admitted.

10 **(Joint Exhibit Numbers 6, 7 and 8 were received into**
11 **evidence.)**

12 Q. (By MS. CLEMENT) Okay. Now, let's just go back to
13 Exhibit Number 178. And we can put this back up. I'll
14 just set that up here. That's okay.

15 Is there an e-mail in Exhibit 178, dated August
16 19th, 2008?

17 THE COURT: Do you want to give her a page number to
18 look at, please.

19 MS. CLEMENT: Yes.

20 THE WITNESS: I think I found it. Yeah.

21 Q. (By MS. CLEMENT) Can you tell us what page number
22 that is on the bottom.

23 A. 178, dash, 013.

24 Q. Yeah.

25 A. Is that -- okay. I think that's the only e-mail
26 that's in there.

27 MS. CLEMENT: It's page 13, your Honor.

28 THE COURT: Okay. Thank you.

1 MS. CLEMENT: Thank you. Sorry. Mine doesn't have
2 a page number on it.

3 Q. (By MS. CLEMENT) And is this a e-mail that you sent
4 to Eric Boice?

5 A. Yes, it is.

6 Q. And did you copy Nancy Cordova, your ED, and also
7 Melissa Malek, the -- your Regional Director of Sales and
8 Marketing?

9 A. Yes, I did.

10 Q. And did someone help you put this e-mail together?

11 A. Yes, I had help.

12 Q. And who helped you put this together?

13 A. Nancy and Melissa, because I was so new.

14 Q. Okay. And did you tell Eric Boice in your e-mail
15 that you worked really hard to get a phenomenal deal, and
16 you're asking him to meet you with a small amount of
17 compromise?

18 A. Did I personally or...

19 Q. Is that what the e-mail says?

20 A. That's what the e-mail says.

21 Q. Was that your language?

22 A. That was not my language.

23 Q. Okay. And then did you also provide a spreadsheet,
24 letting Eric know about what the current -- what they were
25 currently paying at The Palms?

26 A. That was included in the e-mail.

27 Q. Okay. And that was an attachment?

28 A. Yes.

1 Q. And then also showed them what they were also
2 looking at, Merrill Gardens, or The Gardens, as another
3 option?

4 A. That's correct.

5 Q. And then also a proposed situation at Emerald Hills?

6 A. Yes.

7 Q. And so did someone help you put that together as
8 well?

9 A. Yes, they did.

10 Q. Now, when you toured Eric and Mark through the
11 facility, was Myron also with them?

12 A. I don't think when -- I don't recall when I toured
13 with Eric and his -- I think it was his brother. I don't
14 believe he was with them.

15 Q. Okay. And had you previously met Myron when he came
16 to the facility?

17 A. I don't think I -- I don't think I was there at the
18 time.

19 Q. Okay.

20 A. I think I was new.

21 Q. Okay. And so in your meeting with Eric and Mark
22 when you toured the facility, can you tell the jurors what
23 type of things you told them about what services
24 Emerald Hills would be providing.

25 A. Well, as we walked through the community to show
26 them both the assisted living side and the memory care
27 side, they had questions about, you know, what kind of care
28 the mother would receive. And Mr. Boice -- Myron was very

1 independent, so what kind of activities would be available
2 to him. Being taken to doctors' appointments. What kind
3 of social schedule they have. What kind of food do they
4 have? Is the food good? And just things that looked like
5 was important to the parents, to make sure it was a good
6 fit.

7 Q. And was one of the talking points that you were told
8 to tell family members, that there was a full-time nurse
9 available in the facility?

10 A. Yes.

11 Q. And is that something that you were told to say,
12 that there was a licensed nurse on staff full time, to both
13 monitor and coordinate the care needs of their mother?

14 A. Yes. And that was in the brochures, I'm sure. That
15 was one of the talking points that we had.

16 Q. And if you look on page ten of Exhibit Number 178 --

17 A. Yeah. That's one of the talking points.

18 Q. Yeah.

19 Does it indicate there that a licensed nurse would
20 be on staff to monitor and coordinate care needs?

21 A. Yes, there is.

22 Q. And did you also let them know that there was this
23 activities-focused program at Emeritus in the Memory Care
24 Unit, as stated in the brochures?

25 A. Yes.

26 Q. Did you have an understanding from meeting with Eric
27 and Mark that their mom and dad had been living together at
28 a place called The Palms?

1 A. Yes.

2 Q. And was it your understanding that they'd had a
3 wonderful experience there?

4 A. Yes, they did.

5 Q. And can you tell the jurors, what was your
6 understanding as to why Myron and Joan were considering
7 moving to Emerald Hills?

8 A. The concern they had is they wanted -- Myron and
9 Joan wanted to be closer towards their kids and their
10 grandchildren which lived -- they lived further up the
11 hill, so they wanted to move closer.

12 Q. Now, were you present on the day that Joan Boice
13 moved in?

14 A. I was present.

15 Q. And can you tell the jurors, what did you observe
16 about Joan Boice when -- or strike that.

17 Was that the first time you met Joan, was the day
18 she moved in, on September 12th?

19 A. Yes.

20 Q. And can you tell the jurors, was Joan able to walk
21 when she was there?

22 A. She was able to walk, but she had a walker.

23 Q. And who was with her?

24 A. Her son Eric was there and his wife, and her husband
25 Myron was with them.

26 Q. And did you have any interaction with Joan and her
27 daughter-in-law, Kathleen, that day?

28 A. Yes, I did.

1 Q. And can you tell the jurors what that interaction
2 was about.

3 A. Well, I met them when they came in, and I sat them
4 down in the front room, which is kind of a greeting area,
5 and got to be introduced to Myron and Joan and talked to
6 them a little bit while we waited for the nurse to come do
7 her evaluation.

8 Q. And was there a long wait there for the family?

9 A. There was.

10 Q. Now, at this point, in July and August of 2008, had
11 you had any training from Emeritus about the level of care
12 of a resident that they could accept to the facility?

13 A. No, I didn't.

14 Q. Over the course of your employment at Emeritus,
15 those -- ten months were you there?

16 A. Yes, ten months.

17 Q. Did you become concerned about the level of care of
18 the residents who were actually coming into the facility?

19 A. I did become concerned.

20 Q. And did you do something -- did you have concerns
21 about the safety of the residents?

22 A. I had concerns about the safety of the residents as
23 well.

24 Q. And can you tell the jurors, what, if anything, you
25 did to educate yourself with regard to the concerns that
26 started coming up to you over the course of your
27 employment.

28 A. One of the things I did -- well, one thing I did was

1 discuss my concerns with management. But I also took the
2 RCFE Title 22 course for myself, for my own personal
3 knowledge, just so I could understand the acceptance rules
4 and Title 22 regulations.

5 Q. And did you do that right before you tendered your
6 resignation?

7 A. Yes, I did.

8 Q. And once you took that class, did it become clear to
9 you that Emeritus had been improperly accepting and keeping
10 residents at the facility?

11 A. Yes, it did.

12 Q. Now, you just mentioned that you had concerns about
13 Emerald Hills. Can you tell us what -- just list for the
14 jurors what concerns you had about the operation of the
15 building that you brought to the attention of your
16 supervisors.

17 A. I was concerned at the -- one of the biggest
18 questions potential families would ask me is, "What is the
19 staff ratio to the residents?" And I was consistently
20 concerned that there was not a ratio that I thought was a
21 safe amount to take care of the residents that were in the
22 community.

23 Q. And what did you do about these concerns?

24 A. I raised them to my managers.

25 Q. And what was the response?

26 A. The response was to stay out of operations and my
27 job was to sell the building.

28 Q. Did you ever have concerns about staff training or

1 qualifications?

2 A. I was concerned on the level of staff that we had,
3 as far as what their qualifications were and if they were
4 capable of taking care of the residents at the acuity that
5 was in our building.

6 Q. How about activities? Let's just focus strictly on
7 the Memory Care Unit.

8 What concerns, if anything, did you have about the
9 Memory Care Unit as it related to activities?

10 A. There were no activities that I saw happening. Um,
11 rarely -- a gal from the adult day-care would come in and
12 sit with the residents and do something. But most times, I
13 would see residents sitting in the living room with the TV
14 on. And I guess that consisted of an activity.

15 Q. How about the Memory Care Unit, cleanliness of that
16 unit? Did you ever have any concerns about that?

17 A. That was one of my biggest concerns for me. Because
18 it's -- it smelled of adult urine consistently.

19 Q. And why was that a concern for you in sales and
20 marketing?

21 A. Well, when we have families coming through, a
22 potential resident's coming through to, you know, tour the
23 community and they walk in and it's going to smell of
24 urine, that's going to turn a potential resident off, or
25 they're going to question why it's smelling.

26 Q. Did you have a concern about any of the residents'
27 safety in the Memory Care Unit, specifically as it related
28 to this issue of -- you know, this urine going on?

1 A. Yes, I did. And I consistently brought it up to
2 management, almost on a daily basis.

3 Q. And what was the response?

4 A. To stay out of operations.

5 Q. And we heard from a witness yesterday about a
6 resident who had -- in the Memory Care Unit -- who had a
7 problem, where she was just urinating on the floor.

8 Did you -- did you know about that? And, please,
9 don't use any residents' names.

10 A. Okay. I did. Multiple times a day, in front of
11 another resident's door.

12 Q. Did that ever give you a pause or concern about the
13 safety of the other residents?

14 A. Well, I thought it was a concern. I think it's a
15 health concern. I think it's a safety issue. I think it's
16 a cleanliness issue. And I -- it was one of the hottest
17 buttons I had because it just seemed to consistently happen
18 and nothing was being done about it.

19 Q. Did you have concerns about promises that Emeritus
20 told you to make to families that were not actually being
21 fulfilled?

22 A. Yes, I did.

23 Q. And can you describe for the jury promises that you
24 were told to make, but then you realized were not actually
25 being fulfilled.

26 A. Well, having a nurse on staff readily available.
27 The nurse wasn't always there. I mean, she wasn't there 24
28 hours a day. One of the talking points was to let them

1 know that we can take them to doctors' appointments, which
2 was not always true, or it was limited to what days the bus
3 was going out on -- to do their errands or whatever for the
4 residents.

5 Um, concerns I had was, again, the lack of staff,
6 the lack of the training that the staff had.

7 Q. Did you ever have any concerns about in the Memory
8 Care Unit or anywhere -- let me rephrase that.

9 Did you ever have any concerns in the building as it
10 related to residents getting injured?

11 A. Yes, I did.

12 Q. And can you tell the jurors what your concerns were
13 in that regard.

14 A. Well, the one concern that I brought up -- at some
15 point in time, I just was alerted that -- I thought there
16 was a higher number of falls than I thought would be
17 expected with residents.

18 Q. And was that true in one part of the building or the
19 other, or was it equal or...

20 A. Mostly in memory care.

21 Q. Did you ever have concerns about Emeritus' -- well,
22 strike that.

23 Did your -- did the number of move-ins that you were
24 required to get when you were first hired -- it was four to
25 five a month -- did that change?

26 A. It changed when we had a new regional director join
27 our -- our region. And I was averaging a little bit above
28 the move-ins that I was required. And then when this

1 regional director came on board, I was pretty much bullied
2 every month to get to ten move-ins.

3 Q. And who was this regional director?

4 A. Ronda Castleberg.

5 Q. And did you tell Ronda Castleberg, your Regional
6 Director of Operations, why you thought you couldn't sell
7 this building?

8 A. I gave my concerns of why I didn't think I could
9 sell the building with the concerns that I just mentioned,
10 that I brought up to management. And I -- I thought I was
11 doing the expected sales quota I was supposed to be
12 reaching. And I didn't think personally that -- especially
13 during the housing crisis -- that the prices were in line,
14 and I didn't think that was reasonable.

15 Q. And did you tell Ronda Castleberg your concerns
16 about the cleanliness of the Memory Care Unit, the lack of
17 training, the lack of staff, the concern about the
18 residents falling all the time? Did you relate that to
19 her?

20 A. I did.

21 Q. And what was her response?

22 A. Ronda's response was to go in my office, shut the
23 blinds on my door, lock the door, and sell the building.

24 Q. During the time that Mrs. Joan Boice was at the
25 facility, was Peggy Stevens, the facility nurse, was she
26 engaged anywhere else?

27 A. I believe she was taking care of another building as
28 well down in Roseville.

1 Q. Did Emeritus have marketing campaigns where they
2 would accelerate the number of move-ins you were supposed
3 to get toward the end of the month?

4 A. Yes, they did.

5 Q. And can you describe that to the jurors, as to what
6 they would do to you and the other sales people.

7 A. There was phone conversations. We would have phone
8 calls or e-mails. And my feeling is we were being pit
9 against each other. The directors -- the sales directors
10 were being pit against each other to see who could sell the
11 most units in a building, you know, per region. And as,
12 you know, a person got a sale, an e-mail would go out or a
13 phone call would happen. And it was just a lot of pressure
14 to try and keep up with that. And it was just -- it was
15 exasperating.

16 Q. Did you get any training from your supervisors and
17 your collaborative team (indicating) as to how you were
18 supposed to have the families fill out the physicians'
19 reports, those 602s?

20 A. If the resident was going to be moving into the
21 memory care neighborhood, they were -- we were encouraged
22 to make sure the doctor wrote "mild cognitive impairment"
23 versus "dementia."

24 Q. And what about residents who would move into the
25 assisted living side? Were you given any coaching on that?

26 A. Pretty much the same, to make sure that there was
27 not a dementia code, or just coaching to make sure that
28 they would fit the standards to move into the building.

1 Q. Were you ever present at a meeting where the
2 Vice President of Sales and Marketing, Angela Meals --
3 Neale, told the group to go ahead and admit residents
4 without current 602s?

5 A. I believe that was -- it was one of the sales
6 meetings we were at. I was fairly new.

7 Q. How often a day would you go into the Memory Care
8 Unit?

9 A. I spent -- I was in the memory care neighborhood
10 multiple times because of my concerns. And my biggest
11 concern was the urine on the floor. And I had to make sure
12 that the building looked up to standards before I could
13 bring a tour through.

14 Q. Did you ever have any problems when you toured the
15 building with a potential family member, in the Memory Care
16 Unit?

17 A. There was several things that I've seen. One in
18 particular -- with a family member?

19 I know that there was residents -- when they sat in
20 the TV room, one instance I had, the staff was in the --
21 the family room with them, on the couch, sleeping with
22 them, just laying there next to them asleep. That was
23 one of the -- and I had a tour with me. So it was rather
24 alarming.

25 Q. Was that a "activity" for the residents, to have a
26 nap with the caregiver?

27 A. I didn't think so.

28 Q. Did you have a concern about the pricing compared to

1 what the residents were actually getting?

2 A. Yes, I did.

3 Q. And what was that?

4 A. I didn't feel the -- especially the things that we
5 were promising on the marketing brochures was being met for
6 the residents, for the amount that they were paying for
7 care.

8 Q. While -- I want to take you back to Joan and Myron
9 Boice. Okay?

10 While Joan was a resident, did you learn about
11 problems with her care?

12 A. I did.

13 Q. And can you tell the jurors what you learned.

14 A. I would have the caregivers come to me because they
15 saw how much I would spend time in there, in the memory
16 care neighborhood. They were just concerned that her
17 health was failing, that she was not as mobile as she was
18 when she came in, and that the director of memory care was
19 never in the neighborhood. She was always off doing
20 something and she could never be found.

21 Q. And who was that?

22 A. Alicia Parga.

23 Q. How about the family, Myron Boice? Did he ever come
24 talk to you?

25 A. Yes. Myron was very active and he was always -- he
26 was always around the building somewhere. And he would
27 come in my office quite a bit to speak with me and just to
28 visit.

1 Q. Did he ever share with you concerns he had about
2 Joan's care?

3 A. He did. He didn't think she was getting the quality
4 of care that was stated when they moved in, when they
5 signed the contracts.

6 Q. And was it your understanding that Myron and Joan
7 Boice paid a \$2500 nonrefundable community fee in August of
8 2008, before they even moved in?

9 A. Yes, they did.

10 Q. And then is it your understanding that Myron was
11 paying \$2500 a month for a studio, and Joan was paying
12 \$4,625 a month to share a room with Maggie Boyce?

13 A. Yes, they had separate apartments. He was on the --
14 on the assisted living side. He was independent. And she
15 was on the memory care side of the neighborhood.

16 Q. Did the staff ever talk to you about bedsores that
17 Mrs. Joan Boice developed at Emeritus?

18 A. Staff would come to me. But I wasn't the nurse, and
19 so I would direct them to the nurse or to the director.
20 But they were concerned with sores that they were seeing on
21 her that weren't healing.

22 Q. In -- did you have interaction with Eric and
23 Kathleen Boice after the first day that Mrs. Boice moved
24 into the facility?

25 A. Oh, yeah. They were in -- they were very integrated
26 in her care, as far as coming in and visiting and making
27 sure she was okay. They would come in on the weekends with
28 the kids. So they were in quite a bit to see how Joan was

1 doing and to visit, with Joan and Myron.

2 Q. Did they ever come to you and tell you any concerns
3 that they had about Joan?

4 A. Yes, they came to me. They were concerned about --
5 they felt like her health was failing, or that she wasn't
6 clean, or one of the staff members would mention something
7 about these sores on her. And I would direct them to Nancy
8 or to Peggy because I was consistently told to -- my job
9 was about sales and I was not to be, you know, having any
10 part of the operations. I was strictly to be doing sales.

11 Q. Now, did Joan's children, Eric and Kathleen Boice,
12 did they ever talk to you about concerns they had about
13 Peggy?

14 A. Yes. They were frustrated that when they wanted to
15 have care meetings with Peggy and/or with Nancy about
16 Joan's care that Peggy was never available for a time to
17 meet with them. And they were becoming increasingly
18 frustrated, which is why they were coming into my office.

19 Q. Now, do you remember attending a meeting regarding
20 Joan Boice about half -- well, a little more than halfway
21 through her stay?

22 A. With the family, I did.

23 Q. And was this meeting -- how was it that you got
24 involved in this meeting with Joan's family?

25 A. Um, Eric and Kathleen specifically asked for my
26 presence to be there.

27 Q. And who else was present in the meeting?

28 A. Nancy and Peggy.

1 Q. And from the family?

2 A. And the family.

3 Q. And was that Eric and Kathleen?

4 A. It was Eric and Kathleen.

5 Q. And did you have a talk with Nancy and Peggy before
6 the meeting?

7 A. We talked before the meeting. And they were
8 confused as to why they -- the family had requested my
9 presence to be there. And I was instructed to be in the
10 meeting and do not say a word.

11 Q. Do you recall that Kathleen Boice presented a
12 written agenda at that meeting?

13 A. Yeah. She was very organized.

14 Q. And do you recall that the family listed out serious
15 concerns they had about Joan's care?

16 A. Yes, they did. It was all on her agenda.

17 Q. And did the family raise -- or strike that.

18 Did the family in that meeting raise something where
19 they said that Alicia had mentioned something about hospice
20 for Joan, to keep her there?

21 A. Yes. Alicia did that.

22 Q. And what was Nancy Cordova's -- well, strike that.

23 Was the -- did the family appear surprised in
24 response to that?

25 A. Yeah. They didn't understand why Alicia was
26 suggesting hospice. And Nancy and Peggy continued to talk
27 about what her concerns were.

28 Q. Did Nancy or Peggy talk to the family about what

1 hospice meant?

2 A. They did.

3 Q. And what did they tell the family?

4 A. That it just -- well, hospice is meant -- it could
5 be temporary, or it could be a permanent way to finish your
6 life out if you're terminally ill. And they explained that
7 hospice doesn't always mean that you won't progress off of
8 hospice and be okay. The family was concerned about that.

9 Q. Over the course of your employment -- that was early
10 in your employment, true?

11 A. Yes.

12 Q. And over time, did you learn -- did you see other
13 examples where the executive director or management would
14 suggest hospice as a means of "closing the back door"?

15 A. Yes. I believe there -- you know, each community
16 has a hospice waiver, meaning they're allowed to have X
17 amount of residents on hospice at a given time.

18 Q. And did that start becoming a concern for you, based
19 upon the staffing and the training and things that you saw
20 in the facility?

21 A. Yes. Because it's more care.

22 Q. I'm going to back out now to just your experience
23 overall.

24 Were there high acuity residents in the building on
25 the assisted living side?

26 A. Yeah, there was a couple residents that were high
27 acuity, meaning needed a little bit more care, maybe more
28 help with showering, assisting in and out of their bed or

1 into, you know, the dining room or whatever their care
2 needs were.

3 Q. Were there residents, to your understanding, on the
4 assisted living side that actually needed more assistance
5 than even one person to get them in and out of bed?

6 A. Oh, absolutely.

7 Q. Was that uncommon, for Emeritus to have residents in
8 the facility on the assisted living side that needed the
9 help of two or more people to get in and out of bed?

10 A. I didn't think so.

11 Q. Was there high acuity to your observation in the
12 Memory Care Unit?

13 A. Some residents were, yes.

14 Q. Can you describe for us -- please, don't tell us the
15 names -- residents who you observed in the Memory Care Unit
16 who thought were high acuity?

17 A. There was a resident that was blind. So, obviously,
18 she needed quite a bit of assistance in getting around, and
19 her daily needs of, you know, washing and eating and things
20 like that.

21 There was a resident that was in a wheelchair
22 because he had one leg.

23 And as Joan's health progressed, she was needing
24 more care as well. (Verbatim.)

25 Q. Was there a time shortly after Joan was in the
26 facility that you observed that she was no longer walking
27 with her walker?

28 A. Yeah. I saw her more often either in her bed or in

1 the TV room, sitting in a recliner or on the sofa.

2 Q. After Joan left the facility -- or strike that.

3 Do you have an understanding as to why Joan left?

4 A. I believe her health was failing and she was -- had
5 some sores on her that weren't healing, that needed more
6 care than we could provide her with, or that hospice could
7 provide.

8 Q. How many potential residents were rejected as being
9 too high of acuity over the course of your employment,
10 ten -- ten months?

11 A. I don't remember turning anybody away.

12 Q. Why did you leave Emeritus?

13 A. I left Emeritus because as I went further in my
14 employment with them, I realized that the standards of
15 their running of the operations was not in align with what
16 I agreed with. And I was very concerned, and I was very
17 vocal about my concerns. So it wasn't any kind of guess to
18 anybody that I was -- I was not happy. And I didn't feel
19 that I could successfully continue in my job.

20 Q. Oh, I want to go back to that meeting with Joan's
21 daughter-in-law, Kathleen, and Eric, and Nancy, and Peggy,
22 and yourself.

23 Was there any communication immediately after that
24 meeting between yourself and Nancy and Peggy?

25 A. Yes. We went back into -- I think it was my office,
26 to just kind of discuss what -- the concerns that Kathleen
27 had brought up in the meeting and how we were going to
28 accommodate.

1 Q. Did they express anything to you about your
2 participation in the meeting?

3 A. I had said a few things in the meeting, and they
4 were angry. I was instructed not to speak in the meeting,
5 and I did. And they were very unhappy.

6 Q. Did you see Myron almost every day that you worked
7 there?

8 A. I did.

9 Q. Did you ever see him in a jogging suit?

10 A. No. Mostly, Myron -- I would see him in shorts and
11 a sweater and tennis shoes.

12 Q. With regard to concerns about staffing not being
13 sufficient staff, was it your understanding while you
14 worked there that the maintenance man was actually helping
15 the caregivers give showers to the residents?

16 A. Yes, he did.

17 Q. When you complained -- when you complained to your
18 superiors about not enough staff to care for the residents,
19 would that be Nancy, Rich, and Ronda?

20 A. Yes. And I would tell -- you know, I would also
21 tell Peggy, because those were her -- that were her staff.

22 Q. And what was the response from your executive
23 directors when you complained about not enough staff?

24 A. To stay out of operations.

25 Q. Now, was "Join Their Journey" part of the marketing
26 tool that you were using to sell the building for Emeritus?

27 A. It was in the brochures.

28 Q. Did you ever actually have the Join Their Journey

1 training?

2 A. No.

3 Q. Did you ever use the Ethics First Hotline to voice
4 your concerns?

5 A. No.

6 Q. Why not?

7 A. Well, I thought I was supposed to report my concerns
8 to management. And, unfortunately, it was known around the
9 community that if you used the Ethics First Hotline, you
10 pretty much were going to get fired.

11 Q. Thank you.

12 A. That's what I was -- that was a known thing through
13 the employees.

14 MS. CLEMENT: Thank you. No further questions.

15 CROSS-EXAMINATION

16 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the
17 Defendant:

18 Q. Good afternoon, Miss Gratiot.

19 When did you leave Emerald Hills?

20 A. At the end of April of 2009.

21 Q. Okay. Have you ever been represented by counsel
22 concerning this case at all?

23 A. Yes, I have.

24 Q. Who have you been represented by?

25 A. Oh, have I been represented? No.

26 Q. Oh, okay.

27 A. I'm sorry. I misunderstood you.

28 Q. Okay. All right. Have you had a chance to discuss

1 your testimony with Ms. Clement?

2 A. Discuss my testimony?

3 Q. Right.

4 A. Huh-uh.

5 Q. Did you have any meetings --

6 THE COURT: Excuse me. Was that a "yes" or "no"?

7 THE WITNESS: Oh, I'm sorry.

8 THE COURT: That's okay.

9 THE WITNESS: No.

10 Q. (By MR. REID) Have you had any meetings with
11 Miss Clement before coming here today?

12 A. I was subpoenaed and I was -- I met with Lesley to
13 talk about when I would be here on the stand.

14 Q. Okay. And when did you meet with her?

15 A. I was subpoenaed -- God, I don't remember when I was
16 subpoenaed. It had -- I was on vacation, so it had to have
17 been probably at the end of last year, or the beginning of
18 the year.

19 Q. 2012, 2013 we're talking about?

20 A. Yes. I'm sorry.

21 Q. Okay. And so you were subpoenaed.

22 Did you go down to her office after you got the
23 subpoena?

24 A. I did go down to her office once.

25 Q. Okay. And were you asked if you were represented by
26 counsel?

27 A. I don't remember if she asked me that. I may have
28 told her I wasn't.

1 Q. All right. So you went down to her office.

2 And what happened when you met Ms. Clement at her
3 office?

4 A. Um, geez, I don't remember. We just talked about
5 that the case -- there was going to be a case going to
6 trial.

7 Q. Mm-hmm.

8 A. And I didn't -- I've never been on the stand, so I
9 didn't understand what was going to be going on in the
10 courtroom. And she explained that when it was my turn to
11 be up on the stand, she would call and give me fair
12 warning.

13 Q. Okay. So how long did this meeting last?

14 A. Not long at all. I don't recall the time, but it
15 wasn't long at all.

16 Q. Okay. So all of the questions that Ms. Clement
17 asked you today, those weren't topics that you discussed
18 with Miss Clement at any time?

19 A. No. I was expected to just use the best that I
20 could to recall what happened at the -- at the community
21 and just try to jog my memory about what I remembered about
22 the Boice family.

23 Q. Okay. I'm not sure I'm following you.

24 When you met with Ms. Clement, is that what she told
25 you, you need to think about your experiences with the
26 Boice family?

27 A. I -- yes.

28 MS. CLEMENT: Leading.

1 THE COURT: He can lead.

2 MR. REID: Thank you, your Honor.

3 THE WITNESS: Can I?

4 THE COURT: Go ahead. You can answer.

5 THE WITNESS: I'm sorry.

6 I just didn't know what to expect when I was here.
7 And basically I was just told to just -- you know, I would
8 probably be asked questions about my experience, my sales
9 experience, and what my role was, and if I, you know,
10 remembered anything about the Boice family.

11 Q. (By MR. REID) Okay. And then did you discuss the
12 substance of those things with Ms. Clement in that meeting?

13 A. I didn't think I needed to.

14 Q. Okay. Have you discussed the substance of those
15 things with anybody that you understood was affiliated with
16 Ms. Clement's office before coming in here and testifying
17 today?

18 A. No. Just with my husband.

19 Q. Okay. So as far as you know, Miss Clement had no
20 idea what you were going to say in response to your
21 questions; is that right?

22 A. I think she would have an idea of some of the things
23 I might have said just because of my experience working
24 there with the family.

25 Q. Okay. Did you give -- did you give her an
26 understanding -- you know, some idea of what your
27 experiences were when you met with her?

28 A. No, we didn't talk about -- we didn't talk about

1 specifically what I was going to say.

2 Q. Did you talk generally about what your experiences
3 were?

4 A. Hmm. I don't think so. I just -- I was nervous and
5 I didn't know what -- what to expect and how deep involved
6 I was going to be asked questions.

7 Q. So how long was the meeting then?

8 A. It wasn't very long at all. It was -- I don't think
9 it was more than a half-hour. I'm just trying to remember.

10 Q. During that half-hour, did you review any documents
11 with her?

12 A. I didn't have any documents to review.

13 Q. Did she show you any documents?

14 A. Huh-uh. No.

15 Q. Did she -- when was the last time you saw those
16 brochures that you just identified in trial today?

17 A. Today.

18 Q. Okay. And before today, when was the last time you
19 saw those brochures?

20 A. When I worked at Emerald Hills.

21 Q. And it's your specific recollection that those three
22 brochures were the exact brochures that you were providing
23 to people at Emerald Hills three-and-a-half years ago, four
24 years ago?

25 A. Yeah. Those were some of the brochures that were in
26 the brochure packet that we gave to families.

27 Q. What other brochures were there, do you know?

28 A. Um, well, depending on the type of apartment they

1 wanted, we would have this brochure, and then about cost.
2 And it would be random, depending on -- they were
3 customized to the family, depending on what the family's
4 needs were.

5 Q. The brochures were customized?

6 A. No, meaning the packets. So I wouldn't put in -- I
7 wouldn't put in the packet for a family about the memory
8 care studio if it was something that they were doing on the
9 assisted living side, and vice-versa.

10 Q. Okay. Do you -- when was it that you met with Mark
11 and Eric Boice and -- at the community?

12 A. Um, well, it was --

13 Q. And, yes. If you need to look at an exhibit, that's
14 fine?

15 A. Okay.

16 Q. I think it was --

17 A. I met with Eric -- I talked with Eric on -- the end
18 of July. And then 8/15 with Eric and Mark.

19 Q. Okay.

20 A. August 15th.

21 Q. So you talked to them on August 15th. You met with
22 them at the end of July?

23 MS. CLEMENT: Objection.

24 THE WITNESS: No.

25 MS. CLEMENT: Misstates --

26 MR. REID: Okay. I misunderstood. I apologize.

27 THE WITNESS: I spoke with Eric on July 29th, and I
28 met with Mark and Eric on August 15th.

1 Q. (By MR. REID) August 15th of 2008?

2 A. Yes.

3 Q. Okay. And you specifically remember giving Mark and
4 Eric those three brochures?

5 A. Well, the brochure -- the packet had standard
6 things -- the brochure packet had standard things that went
7 to every family member. And then I would customize
8 depending on, you know, what kind of apartment they were
9 going to have and things like that.

10 Q. What else did you give them then?

11 A. In the brochure packet?

12 Q. Right.

13 A. It would be this form right here that talks about
14 what the monthly rate includes.

15 Q. That was -- and just so we know what we're talking
16 about, what exhibit number is that?

17 A. Oh, I'm sorry. 178, dash, 010.

18 Q. Okay. We saw that before. That's that bullet
19 pointed and what comes with the fee?

20 A. Correct.

21 And then there were several different brochure --
22 or, excuse me, pieces of paper, such as the 178-011,
23 depending on the type of apartment they were getting. So
24 it was different for each.

25 Q. Now, when you -- this was your first sale?

26 A. Yes.

27 Q. So when you gave -- when you gave --

28 MR. REID: I'll tell you what, could we --

1 Would it be okay to put up 178, page ten, your
2 Honor?

3 THE COURT: On the sections that have been admitted?

4 MR. REID: Yes. Specifically, page ten, I think,
5 was in that list.

6 THE COURT: Yes.

7 MR. REID: Okay. Could you pull up 178, page 10.

8 Q. (By MR. REID) And then looking at the section that
9 says, "Monthly Rate Includes."

10 A. Mm-hmm.

11 Q. Okay. Is it your recollection that you told Mark
12 and Eric Boice something different than what was on that
13 sheet?

14 A. No. I followed the sheet.

15 Q. Okay.

16 MR. REID: Okay. Thank you. You can take that
17 down.

18 Q. (By MR. REID) Now, I'd like you, please -- when you
19 were hired, you started in the middle of July of 2008,
20 correct?

21 A. Yes.

22 Q. And do you remember receiving some training, some
23 on-board training when you first started?

24 A. Only sales training.

25 Q. Okay. Would you kindly pull up Exhibit 91. And I
26 can help you.

27 MR. REID: May I approach the witness, your Honor?

28 THE COURT: Yes.

1 **(Joint Exhibit Number 91 was marked for**
2 **identification.)**

3 MR. REID: Whoops. I think I pulled the wrong one.
4 I believe Exhibit 91 has been admitted into
5 evidence, your Honor.

6 MS. CLEMENT: No, it has not.

7 MR. REID: Oh, it hasn't.

8 MS. CLEMENT: You objected to it.

9 Q. (By MR. REID) Okay. Then let me refer your
10 attention to page 26 of Exhibit 91. Okay?

11 Do you see that?

12 A. Oh, I'm sorry. Yes. I was reading it.

13 Q. Okay. And take a look at that document and tell me
14 if it refreshes your memory -- your recollection as to any
15 training that you received when you first started at
16 Emerald Hills.

17 A. This wasn't a training checklist. This was more
18 just of an orientation.

19 Q. Okay. I -- maybe I'm using the wrong word. I
20 apologize.

21 So when you started, is it your memory -- your
22 recollection that you did receive orientation with respect
23 to the community and aspects of your job?

24 A. I briefly spoke with each department.

25 Q. Okay.

26 (Rima Badawiya and Bryan Reid confer.)

27 MR. REID: Okay. May I inquire of the Court?

28 My understanding is that this has been admitted,

1 Exhibit 91.

2 THE COURT: I don't have Exhibit 91 as having been
3 admitted.

4 MR. REID: Okay.

5 THE COURT: I have 88 through 90, and 92 through
6 105, with a couple of pages in certain ones.

7 MR. REID: Okay. Thank you.

8 Q. (By MR. REID) So as part of your orientation, do
9 you recall meeting with -- you met with Nancy Cordova, and
10 she went through an overview of the community with you?

11 MS. CLEMENT: I object to the question. It's
12 leading. And it also lacks foundation, particularly for
13 this document, your Honor.

14 THE COURT: We had a discussion at sidebar where the
15 Court permitted Miss Clement to lead the witness under 776.
16 Under 776, that would require you to proceed as if direct
17 or redirect.

18 I will allow some limited leading for preliminary or
19 foundational matters.

20 MR. REID: Thank you, your Honor.

21 Q. (By MR. REID) Do you have a recollection of
22 Miss Cordova orienting you to the community?

23 A. Very briefly. Sitting with me and talking with me.

24 Q. Okay. And do you -- how about Peggy Stevens? Do
25 you recall meeting with Miss Stevens?

26 A. I met with her. But looking at this, we didn't go
27 into detail on these items. I didn't watch a video.

28 Q. Okay. How about Alicia Parga? Did you meet with

1 her as you were being oriented to the community?

2 A. I met with her briefly.

3 Q. And did you meet with the maintenance director,
4 Chris Garibaldi?

5 A. Every department head, I met with very briefly.
6 Just very -- overview -- a quick overview about their
7 department.

8 Q. Okay. When you -- what was your work history before
9 starting at Emeritus at Emerald Hills?

10 A. I did sales and marketing for nutrition for schools.
11 And I did sales and marketing for healthcare software.
12 And, also, account management work.

13 Q. And we've seen some documents, some sales tools
14 documents that Ms. Clement asked you questions about.

15 Do you have those in mind?

16 A. The -- the ones that were shown to me earlier?

17 Q. Correct. Right.

18 A. Mm-hmm.

19 Q. In your prior sales experiences, were you given
20 training about meeting objections when -- when you were
21 trying to sell a product?

22 A. I have, but not as -- I haven't -- I didn't have
23 this intensive sales training ever.

24 Q. Okay.

25 MR. REID: With the Court's permission, your Honor,
26 I'd like to -- well, maybe I won't do that now.

27 THE COURT: Would this be a good time to stop and
28 pick up tomorrow morning?

1 MR. REID: That would be fine, your Honor. Thank
2 you.

3 THE COURT: All right. Ladies and gentlemen, please
4 leave your notebooks on the chairs. Remember the
5 admonitions. I'll see you at 9:00 a.m. tomorrow morning.

6 And for our witness, I will need you back at 9:00
7 a.m. tomorrow morning.

8 Thank you.

9 THE WITNESS: Do I just put these back over here?

10 THE COURT: You can leave them right there. We'll
11 pick up with it in the morning.

12 THE WITNESS: Okay.

13 **(The following proceedings were then had in open**
14 **court, outside the presence of the jury.)**

15 THE WITNESS: Thank you.

16 THE COURT: Okay. Could you be seated, please. Or
17 at least counsel, please, be seated.

18 Okay. Where are we on the video deposition
19 excerpts?

20 MS. BADAWIYA: Um, okay. With respect to
21 Miss Castleberg-Smith, we're fine.

22 With respect to Miss Werdel, we have -- we're down
23 to one objection, your Honor.

24 THE COURT: Let me -- tell me what the statement is
25 and what the objection is.

26 MS. BADAWIYA: Okay.

27 THE COURT: Or the question, answer, and objection.

28 MS. BADAWIYA: Okay. Before I do that, there's a

1 restroom.

2 THE COURT: You can all be seated. Thank you.

3 (Pause.)

4 THE COURT ATTENDANT: Please come to order.
5 Department 45 is again in session. The Honorable
6 Judge Judy presiding. (Verbatim.)

7 THE COURT: All right. Ladies and gentlemen, later
8 today we're going to, I think, be showing some videos.

9 Is that correct? Videotaped deposition, will that
10 be today?

11 MS. CLEMENT: If we complete, yes, your Honor.

12 THE COURT: All right. So what we were taking care
13 of a little bit this morning at 9:00 o'clock was just
14 looking over some of the issues related to that. Sorry to
15 keep you waiting outside. But things will flow more
16 smoothly, having done that.

17 So, Mr. Reid.

18 MR. REID: Good morning, ladies and gentlemen.

19 JURORS IN UNISON: Good morning.

20 TESTIMONY OF

21 MELISSA GRATIOT, a witness called by the Plaintiff:

22 CROSS-EXAMINATION

23 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the
24 Defendant:

25 Q. Good morning, Miss Gratiot.

26 A. Good morning.

27 Q. So I'm kind of following up where we left off
28 yesterday. We know that you were hired as the Community

1 Relations Director.

2 A. That's correct.

3 Q. Okay. And basically the -- in charge of sales for
4 the building?

5 A. That's correct.

6 Q. Okay. And now -- when you entered into that role,
7 there were resources available for you to help you do your
8 job, weren't there?

9 A. Such as?

10 Q. How about a Regional Director of Sales and Marketing
11 that you could talk to?

12 A. That's correct.

13 Q. And there was different sales materials available to
14 help you with your job?

15 A. As I got more into my job, yes, with the training.

16 Q. One of the -- and yesterday you testified that -- I
17 do have your transcript. Basically you were told that your
18 job was to sit with the families, get them to move into the
19 building if it was a good fit. Right?

20 A. That's correct. After I met with -- I would bring
21 the family in to meet with the director and the nurse.

22 Q. Okay. I wanted to take a look at Exhibit 288.
23 That's where we left yesterday, and I didn't have it in the
24 computer. So I have it now. I wanted to follow up on a
25 couple of things with you.

26 THE COURT ATTENDANT: Right here.

27 Oh, no, no, no. No.

28 THE WITNESS: This one here?

1 (Pause.)

2 MR. REID: Your Honor, I think this has been
3 admitted. Is it okay if we display this page, Exhibit 288?

4 THE COURT: Yes.

5 MR. REID: Thank you.

6 Q. (By MR. REID) All right. You went through this
7 briefly yesterday with Miss Clement.

8 MR. REID: Could you -- just -- Ms. Ford, if you
9 could just bring up the top few paragraphs there for us.

10 Q. (By MR. REID) So in terms of seeing if the --
11 trying to determine if the residents were a good fit, was
12 that part of the "Safely Somewhere" concept that we were
13 talking about?

14 MS. CLEMENT: Objection; leading.

15 THE COURT: Sustained.

16 Q. (By MR. REID) How does -- how does this notion of
17 checking to see if the residents have good fit relate to
18 this notion of "Safely Somewhere," if you know?

19 A. That would be what the nurse -- when the nurse would
20 go ahead and do the evaluation with the resident to make
21 sure it was a safe place for them, that we could take care
22 of them.

23 Q. All right. Now, directing your attention to the
24 next paragraph here -- for some reason my laser pointer
25 isn't working today.

26 In the second paragraph it talks about, "Are there
27 real financial concerns" and "sales tools." And then
28 there -- you see in the parenthesis, "VA aid and

1 attendance."

2 What was your understanding about directing
3 prospective residents to those kinds of resources?

4 A. Well, I explained -- because when I was -- on a
5 personal level -- working with my grandmother and trying to
6 find assistance for her, I learned about the VA assistance.
7 And so that was one of the resources if they didn't have
8 assistance to pay for their means. I just would let
9 them -- educate them to let them know that there is
10 somebody to talk to, perhaps if their was -- if their
11 spouse or themselves were in the military, that they might
12 be available for some aid with VA.

13 Q. Okay. And then on the last paragraph that we have
14 brought up, there's a question there to remind you to ask,
15 you know, what was -- what brought them to the community or
16 brought them through the doors in the first place.

17 Right?

18 A. Correct.

19 Q. Do you see that?

20 Okay. And what was purpose of trying to find out
21 why they came in in the first place?

22 A. To -- well, it's a scary experience for an elder to
23 leave their home. And I always -- we were always curious
24 to understand what was it that brought them to our
25 community, what kind of assistance did they need, so that
26 we can make sure that we would match it.

27 Q. Now, on the second page --

28 MR. REID: Maybe you can bring up the top, the first

1 three paragraphs of the second page.

2 Q. (By MR. REID) This memo was specific to sales
3 during the holiday season, the end of the year; is that
4 correct?

5 A. That's correct.

6 Q. Okay. And it says -- the memo reminds that the
7 holidays are really actually a good time of year to
8 introduce a prospective resident to the community.

9 Do you see that?

10 A. I see that.

11 Q. And was that your experience?

12 A. My experience?

13 Q. Yeah. Was that consistent with your experience,
14 that the holidays were a time when there were good things
15 happening in the building and a good way to introduce a
16 prospective resident?

17 A. Personally, I didn't agree with that. Because the
18 holidays were a time when I felt families were together,
19 and I didn't think it was the time to be moving a resident
20 in.

21 Q. Okay. Did Emerald Hills, the one holiday season you
22 worked there, did they have events like hot cider or
23 afternoon sing-a-longs that you recall, as are referenced
24 in this memo?

25 A. Not that I can recall.

26 Q. What kind of events do you remember happening at
27 Emerald Hills during the holiday season in the one year you
28 worked there?

1 A. Um, I know that we had music coming in from outside.
2 The community was decorated. But I don't -- I don't recall
3 specific activities.

4 Q. Okay.

5 A. I know -- I do know that Santa came one day.

6 Q. All right. Did he bring presents?

7 A. I don't remember.

8 Q. Do you remember a Halloween party, everybody
9 dressing up in costumes?

10 A. I remember some of the staff, but I don't fully
11 remember if there was a party.

12 MR. REID: Okay. Now, moving down. If you could
13 pull up the next couple of paragraphs.

14 Q. (By MR. REID) I want to draw your attention to this
15 notion here -- sorry. My laser pointer is not working.

16 It says, "This is a great opportunity to offer a
17 slow and gradual move-in."

18 Are you familiar with the concept of a slow and
19 gradual move-in to Emerald Hills?

20 A. Um, we had a respite room, but I don't -- I think in
21 my time there we used it once with a resident who was
22 apprehensive about moving in.

23 Q. In your training and in your experience at
24 Emerald Hills, did you -- were there occasions where people
25 visited numerous times and really -- and shopped around and
26 kind of -- it took a while for them to make the decision?

27 MS. CLEMENT: Leading.

28 THE COURT: Sustained.

1 Q. (By MR. REID) Were -- all of your sales happened
2 very quickly, or what was your experience?

3 A. Um, it was a little bit of both. A lot of -- I
4 don't remember. I mean, I moved in quite a few residents.
5 But, for me, my philosophy was you have to earn that trust
6 and you can't always have someone commit to move in on the
7 first day.

8 Q. Okay. Thank you.

9 MR. REID: Now -- and, thank you, Mr. Taylor. We
10 can have the lights for now. Thank you very much.

11 THE COURT ATTENDANT: Thank you.

12 Q. (By MR. REID) Was there anything about that -- that
13 document that led you to believe that Emeritus wanted you
14 to mislead the residents -- or the prospective residents in
15 the -- in this process of making move-in decisions?

16 MS. CLEMENT: Leading.

17 THE COURT: Sustained.

18 THE WITNESS: I don't --

19 Q. (By MR. REID) She sustained the objection. So you
20 don't have to answer that.

21 A. Oh, I'm sorry. I don't know.

22 THE COURT: That's okay.

23 Q. (By MR. REID) In terms of being honest and accurate
24 with the prospective residents, was there any emphasis on
25 that in your training?

26 MS. CLEMENT: Leading.

27 THE COURT: She can answer.

28 THE WITNESS: Can you repeat the question.

1 Q. (By MR. REID) Right. When -- as you were receiving
2 training, did you receive -- did you receive training from
3 Ms. Malek?

4 A. A little bit of training from Miss Malek.

5 Q. In meeting with Ms. Melissa Malek, what, if
6 anything -- what kind of training did she give you about
7 being honest and forthcoming with prospective residents?

8 MS. CLEMENT: Object to the question. It lacks
9 foundation, the term "meeting."

10 THE COURT: Sustained.

11 Q. (By MR. REID) Did Ms. Malek give you any direction
12 about whether you should be honest and accurate with the
13 residents that might be moving in?

14 A. Absolutely. I'm an honest person.

15 Q. Okay. And is that how you conducted yourself the
16 entire time you worked at Emerald Hills?

17 A. Yes. I built many relationships with the residents.

18 Q. This one memo that we've seen, was this a tool that
19 was helpful to -- for you in doing your job?

20 A. This one right here?

21 Q. Right.

22 A. Personally, I was having issues with it. Because
23 during the economic times, I was feeling that I was having
24 a harder time convincing residents to move in. And I did
25 bring that up to my management.

26 Q. All right. I want to focus now a little bit on the
27 Boices, Mr. and Mrs. Boice moving in. And we know that you
28 were involved in that.

1 A. Mm-hmm.

2 Q. If we could pull -- if you wouldn't mind pulling up
3 Exhibit 178. We looked at this yesterday.

4 A. Is it in this book?

5 THE COURT ATTENDANT: No. It's in the --

6 MR. REID: I can -- I'll help the --

7 THE WITNESS: I'm sorry. This is new.

8 Q. (By MR. REID) That's okay.
9 Here we go. And I'll grab this one.

10 A. Thank you.

11 THE COURT: What's the number?

12 THE WITNESS: What number was that?

13 Q. (By MR. REID) 178.

14 A. Whoop. This is -- here it is. Here it is.

15 Q. Okay. And I'm going to direct your attention to
16 page seven of Exhibit 178. It will be 178, dash, 007.

17 A. I have that.

18 Q. Do you have that?

19 A. Mm-hmm.

20 Q. Okay. Before I ask you about this document, this
21 is -- this is the document that reflected that initial --
22 or a phone call with Eric Boice on July 29th, 2008?

23 A. That's correct.

24 Q. Okay. Wasn't there -- didn't you actually meet
25 Mr. Eric Boice before then?

26 A. Regarding his parents?

27 Q. Had you met him -- Mr. Boice before July 29th, 2008?

28 A. On -- he -- at my home. He was an insurance agent

1 of mine and he was doing insurance for me. And I was
2 talking, and he was asking me what I did for a living. I
3 explained I was going to be working for Emeritus. And it
4 was just a strange connection that he said, *Oh, my dad's*
5 *already been looking over here and he's planning on moving*
6 *them in.*

7 Q. Okay. So did you --

8 A. I didn't know him personally, though.

9 Q. Okay. But you had met him before July 29th, 2008?

10 A. That's correct.

11 Q. And you'd talked about his parents considering
12 moving into Emerald Hills?

13 A. Yes. He was -- it was just -- I was kind of excited
14 because it was just -- I didn't -- I don't know. I just
15 thought that that was going to be a good fit for me since
16 -- knowing someone that was going to be moving their
17 parents in.

18 Q. The meeting -- the time that Mr. Eric Boice was at
19 your house and talking -- discussing insurance with you,
20 was that the first time you had met him, or had you worked
21 with Mr. Boice over the years?

22 A. That's the first time I've ever met him. It was
23 just -- I never -- I didn't know who he was prior to coming
24 to my home.

25 Q. Okay. In relation to the telephone call reflected
26 on page seven, how much before that, if you can recall, was
27 Mr. Eric Boice at your house and you had this conversation?

28 A. He was at my house one time for a very brief

1 interview about life insurance.

2 Q. Okay. And are you able to estimate for us how long
3 before July 29th, 2008 that -- that meeting happened at
4 your house?

5 A. It -- I don't know exactly when, but it was very --
6 it was very close to the same time. Because I knew -- I
7 had been interviewing and I knew I was going to be working
8 for Emerald Hills.

9 Q. Okay. So you hadn't started working -- you hadn't
10 started your job at Emerald Hills at that time?

11 A. I don't recall I had, no.

12 Q. I didn't --

13 A. I don't recall that I did, no.

14 Q. Okay. I'm not quite sure I understand your answer.
15 Are you saying you don't recall, or you don't think
16 you were working there then?

17 A. I don't believe that I was officially hired.

18 Q. All right. I'm sorry. I just want to make sure I
19 understood that.

20 MR. REID: If we could take a look -- your Honor,
21 with permission, could we put up page seven of Exhibit 178?

22 THE COURT: Yes.

23 Q. (By MR. REID) Okay. So the date of this inquiry
24 form is July 29th, 2008, correct?

25 A. That's correct.

26 Q. All right. And is this -- this document reflecting
27 a telephone conversation that you had with Mr. Eric Boice
28 on that date?

1 A. Yes, it is.

2 Q. Okay. And do you recall the telephone conversation
3 you had with him? As you sit here, do you have a memory of
4 it?

5 A. Well, not exactly the call I made, it was so long
6 ago. But as I'm reading this, I followed the script I was
7 trained to use.

8 Q. Okay. That's what I want to find out. I want to
9 find out if your memories of the discussion with Mr. Boice
10 that day are based on reading this document, or if you have
11 some other memories about that phone call.

12 A. I don't know a hundred percent. I mean, I read this
13 document with him when we were speaking and I just filled
14 in the blanks.

15 Q. Okay. Let me ask it this way: Do you remember
16 anything else about the phone call with Mr. Eric Boice on
17 July 29th, 2008, other than what's written in here?

18 A. No.

19 Q. Okay. I'm going to direct your attention to the
20 middle of the page, where there's a reference to -- it
21 says, "Palms" and then "Myron came for tour."

22 Do you see that?

23 A. Correct.

24 MR. REID: Okay. Whoops. That's not it.

25 It's right in the middle.

26 Q. (By MR. REID) What is -- what is that referencing?

27 A. Well, the question says: Where does your, blank,
28 currently live? And I wrote "The Palms."

1 And Myron apparently had come in for a tour before I
2 was employed with Emerald Hills.

3 Q. Okay.

4 A. So I had not met him at the time.

5 Q. I see.

6 And then the next section, what are you recording in
7 the next section under that?

8 A. I was talking to Eric about what his parents are
9 interested in regarding a community and what was important
10 to them. And I just wrote down the answers that he gave
11 me.

12 Q. Okay. What was the number one priority or point
13 that Mr. Eric Boice communicated that day?

14 A. Myron was still very active and he wanted to have a
15 health club that had a pool so that he could swim, if I'm
16 not mistaken.

17 Q. Okay.

18 A. And he was still driving at the time. So he wanted
19 to know, you know, where were some local shopping places he
20 could go to, what kind of excursions and tours that our
21 community offered.

22 Q. Okay. And then in the next box below that, what is
23 that box referencing?

24 A. Concerns that the family had and Myron had about
25 Joan.

26 Q. Okay. And what were the concerns that Mr. Eric
27 Boice communicated to you that day?

28 A. That Joan used to be more social but now she's, you

1 know, progressing into Alzheimer's. She occasionally
2 falls, and she walks with a walker.

3 Q. Okay. Thank you.

4 Now, I want to direct your attention to page 108
5 (sic), the next page of this form.

6 And what does this document reflect? Is this the
7 next communication you had with the Boice family?

8 A. Yes, it is.

9 Q. All right. And what was the purpose of making these
10 notations?

11 A. Eric and his brother Mark came in to tour the
12 community, and it was the follow-up regarding the tour that
13 I had conducted with them.

14 Q. Okay. And directing your attention to this first
15 question on the screen that we're looking at here, what is
16 it that you're inquiring about now?

17 A. The overall impression of the community.

18 Q. And what did -- who were you talking to at this
19 time? Was it Eric or Mark?

20 A. Eric.

21 Q. What did Mr. Eric Boice tell you about his initial
22 impressions?

23 A. Well, my answer says, "Very nice, clean, and
24 friendly staff."

25 Q. Considering that Mrs. Boice -- Mrs. Joan Boice was
26 going to be living in the memory care if they decided to
27 move in, would your tour with Mr. Boice have included the
28 Memory Care Unit?

1 A. Yes, it would have.

2 Q. And then -- then Myron Boice was going to be in the
3 assisted living side, correct?

4 A. Correct.

5 Q. So what portions of the building would you have
6 toured with Mark Boice and Eric Boice with regard to where
7 Myron would be living?

8 A. For Myron?

9 Q. Yes.

10 A. It would have been the assisted living side.

11 Q. And help us understand where you would go on a tour,
12 understanding this was maybe one of the first ones, or
13 early in your career.

14 A. Yeah. And I would imagine that I had Melissa or
15 Nancy with me at the time. We would walk, you know,
16 through the community, show them the activity room and the
17 dining room. And then, again, like I think I said
18 yesterday, I'd show them a couple different apartment
19 options to let them pick an apartment. And then just the
20 basic rooms. Look at the activity schedule, the dining --
21 you know, let them talk to the -- the chef or the cook.

22 Q. Okay. And so the response you received from
23 Mr. Eric Boice on August 15th, describe for us whether that
24 was a response you were hoping to hear.

25 A. What part? That --

26 Q. When he said, "Very nice, clean, and friendly
27 staff," was that a good response?

28 A. Of course. It was a good response.

1 Q. All right. Now, I want to direct your attention to
2 the next section. Okay. The next question on the form --
3 whoops. Let's see.

4 "How do you feel our community compares to the other
5 options you've been looking at?"

6 Correct? Is that -- is that the next section there?

7 A. That's correct.

8 Q. All right. And what was communicated to you by
9 Mr. Eric Boice in response to that question?

10 A. The price was good. He liked the fact that Myron
11 and Joan will be under the same roof.

12 Q. What's the next question that you asked Mr. Boice?

13 A. What do you --

14 Q. Mr. Eric Boice, I apologize.

15 A. The next question is, "What do you feel is going to
16 be the deciding factor at the community you will choose?"

17 Q. And what did Mr. Eric Boice tell you that day?

18 A. Price.

19 Q. What's the next question that you asked?

20 A. "Was there anything in regards to price that you
21 would like further explanation? It can be confusing."

22 Q. All right. And what response did you get from
23 Mr. Eric Boice that day?

24 A. We agreed to rent a studio for same --

25 MS. CLEMENT: Well, I object to the question -- the
26 response. It's not responsive to the question.

27 THE WITNESS: Oh, I'm sorry.

28 MS. CLEMENT: You don't have to be sorry.

1 THE WITNESS: All right.

2 MS. CLEMENT: And it's also leading.

3 THE COURT: Your objection is overruled.

4 Go ahead.

5 MR. REID: Thank you.

6 THE WITNESS: Do you want me to read that?

7 Q. (By MR. REID) Tell us what you -- what -- based on
8 your notations that day, what Mr. Eric Boice's response was
9 to that particular question.

10 A. "We agree to rent a studio for the same price as
11 efficiency studio, 2500," because that was his initial room
12 he wanted and we rented it out.

13 Q. Okay. Do you know what you were referring to at
14 that point in time?

15 A. Apparently, a studio that Myron -- or, excuse me,
16 that Eric and Mark had looked at, or possibly Myron, before
17 I was there.

18 Q. What's the difference -- it had been rented in the
19 interim? It wasn't available any more?

20 A. That's correct.

21 Q. And what -- what was the difference -- explain the
22 difference between a -- an efficiency studio and a studio
23 apartment?

24 MS. CLEMENT: Your Honor, it exceeds the scope.

25 THE COURT: She can answer.

26 THE WITNESS: The size of the apartment.

27 Q. (By MR. REID) Okay. Was there any -- what does
28 that mean? How -- what's the difference in size?

1 A. I don't remember the difference in size, but I know
2 it was a little smaller.

3 Q. So -- so was the agreement then that if they moved
4 in, Mr. Myron Boice would get the larger studio apartment
5 for the price of an efficiency studio?

6 A. That would have been something that the director
7 would have negotiated. I did not negotiate price.

8 Q. Okay. Thank you.

9 Now, at the bottom of the form you wrote the word
10 "Suggestions."

11 Do you see that?

12 A. Yep.

13 Q. And an arrow?

14 A. Yes, I do.

15 Q. Okay. Right down there, right above the Bates stamp
16 number.

17 And then on the back of the form, what did you
18 write?

19 A. "Salad bar, open restaurant any time."

20 Q. Okay. What were you -- what did that mean?

21 A. Myron wanted to have a salad bar. That was very
22 important to him. And he also wanted -- his sons conveyed
23 that he wanted to know would the dining room be open at any
24 time so that if he wanted to go down and get a snack could
25 he go down there.

26 Q. Did -- did Emerald Hills have a salad bar?

27 A. No.

28 Q. So was a deciding factor in Mr. Myron Boice moving

1 he and his wife into Emerald Hills, that they had a salad
2 bar?

3 MS. CLEMENT: Objection; it's leading.

4 THE COURT: Sustained.

5 Q. (By MR. REID) Okay. Could you turn to page 13 of
6 Exhibit 178.

7 The follow-up call that we just looked at, that was
8 August 15th, correct?

9 A. That's correct.

10 Q. Okay. And then four days later, you sent -- you
11 sent this e-mail to efboice@newyorklife.com? (Verbatim.)

12 A. That's correct.

13 Q. Is that Mr. Eric Boice's e-mail address?

14 A. Yes, that's his e-mail. Work e-mail.

15 Q. All right. I just wanted to -- what's the purpose
16 of this e-mail? What were you trying to accomplish here?

17 A. I had spoken with Nancy and Melissa, and the purpose
18 of the e-mail was to negotiate a deal to move the resident
19 in.

20 Q. Okay. I wanted to direct your attention to the
21 second to the last paragraph where you said, "I would also
22 encourage..."

23 What were you trying to communicate to Mr. Eric
24 Boice there?

25 A. Again, since -- when I was working with my
26 grandmother, I learned about VA assistance. And so it is a
27 resource out there that not a lot of seniors know about.
28 And I had introduced this VA assistance program to the

1 Boice family, just in case Myron -- it would help him with
2 his rent. I did that with all potential residents.

3 Q. Okay. Do you know if that was followed up on or
4 whether Mr. Myron Boice received some assistance with his
5 rent?

6 A. I don't -- I didn't know his finances. But I
7 imagine he went and talked with them. He was a very
8 meticulous man.

9 Q. Okay. Going back up -- and I apologize for moving
10 up the document. But if we can take a look at the
11 paragraph that says, "As discussed..."

12 I wanted to ask you about the -- near the bottom of
13 the paragraph, it says, "Upon this agreement we will need
14 the \$2500 community fee."

15 What is a community fee?

16 A. It's a fee paid up-front by a resident to process
17 the paperwork and prepare a room.

18 Q. Okay. And was the proposal that Mr. Myron Boice
19 would pay the community fee, but the fee would be waived
20 for Mrs. Joan Boice if they both moved in?

21 A. To be honest, I don't remember. Again, I didn't
22 negotiate fees. That was a director's involvement.

23 Q. All right. Okay. Now, I want to direct your
24 attention to a different exhibit --

25 A. Okay.

26 Q. -- as we work through this. And I'm going to ask
27 you to grab exhibit -- sorry. I believe it's Exhibit 3.

28 THE COURT ATTENDANT: First book.

1 MR. REID: May I approach, your Honor? I'll help
2 the witness.

3 THE COURT: Yes.

4 MR. REID: Thank you.

5 Q. (By MR. REID) I'm going to direct your attention in
6 Exhibit 3 to pages 4 through 25.

7 If you could just kind of take a look at those pages
8 for a minute.

9 THE COURT: Okay. Can I just get some
10 clarification, because there's a Bates stamp number and
11 then there's numbers at the bottom of the pages.

12 So which do you want her to look at?

13 MR. REID: The Bates -- mine -- the one I'm looking
14 at, it has the BF number in front of it.

15 THE COURT: Okay. You want her to look at the page
16 that says "BF4."

17 MR. REID: Yes. BF4.

18 MS. CLEMENT: I would object to this line of
19 questioning. It exceeds the scope, your Honor.

20 THE COURT: I don't know where he's going on this,
21 so let me find out.

22 MR. REID: Have you looked through that -- those
23 pages, BF4 through FB25?

24 (Pause.)

25 Q. (By MR. REID) Okay. Have you looked through those?

26 A. Briefly.

27 Q. Do you recognize those documents in general?

28 A. It's a resident agreement that the director would

1 sign with the residents or the family when they came in.

2 Q. Was part of your job as the -- as the marketing
3 director to -- when a family was considering moving in --
4 provide them with these kinds of materials, the resident
5 agreement?

6 MS. CLEMENT: Vague as to time.

7 THE COURT: "These kinds of materials"?

8 Sustained.

9 Q. (By MR. REID) Well, did you provide resident
10 agreements to families when they were considering deciding
11 whether to move in or not?

12 A. That was the director's job. I didn't do anything
13 with negotiations.

14 Q. All right. Yesterday -- then yesterday you were
15 asked a question very specifically about a check that was
16 delivered to Emerald Hills at the end of August regarding
17 the Boices.

18 Do you remember that?

19 A. Do I remember being asked about it?

20 Q. Yes.

21 A. I don't remember being asked about it.

22 Q. Do you remember it being suggested to you yesterday
23 that on August 30, 2008, the Boices submitted a -- Mr. --
24 the Boice family submitted a check for \$2500, and it was
25 suggested to you that that was a nonrefundable deposit?

26 MS. CLEMENT: Objection, your Honor. It's
27 argumentative. And it's leading.

28 THE COURT: Overruled.

1 THE WITNESS: I -- I don't -- I don't remember.

2 Q. (By MR. REID) When the families submitted a check
3 before the residents moved in, that wasn't a nonrefundable
4 deposit, was it?

5 A. It was not a nonrefundable? I don't remember. I
6 didn't do the negotiations.

7 Q. The community fee -- did you ever come to learn
8 whether the community fee was a refundable payment?

9 A. I don't remember. I don't -- I don't know.

10 Q. Okay.

11 A. I didn't handle any of the financial transactions.

12 Q. All right. So if you testified yesterday that the
13 Boices submitted a nonrefundable deposit on August 30th,
14 you don't know whether it was nonrefundable or not; is that
15 correct?

16 A. I -- I don't know.

17 Q. You certainly didn't intend to communicate to the
18 jury that the Boices submitted a nonrefundable deposit,
19 correct? Because you wouldn't know.

20 A. I'm sorry. Say that again.

21 MS. CLEMENT: Objection, your Honor. It's
22 argumentative and leading.

23 THE COURT: She's already answered the question.
24 Let's move on.

25 Q. (By MR. REID) Okay. I'd like to now direct your
26 attention to Exhibit 5.

27 All right. And if you wouldn't mind turning to page
28 003 of Exhibit 5.

1 And let me just ask you first: Do you recognize
2 Exhibit 5? Is that a document you're familiar with?

3 A. It's part of the marketing software that we used,
4 yes.

5 Q. The "You've Got Leads" software?

6 A. Yes.

7 Q. All right. And what is the inquiry date listed on
8 Exhibit 5, page 1?

9 A. 9/3/2008.

10 MR. REID: I believe this has been admitted into
11 evidence, your Honor.

12 May I display the third page?

13 THE COURT: Yes.

14 Q. (By MR. REID) I'm going to work backwards. The
15 document goes in reverse chronology, so we'll start from
16 the bottom and go to the top.

17 Directing your attention to the entry at the bottom
18 here, September 11th, 2008, at 6:05 p.m.

19 Do you recognize an entry by you into the "You've
20 Got Leads" system?

21 A. It has my name on it.

22 Q. Okay. And what did you record at that time into the
23 "You've Got Leads" system?

24 A. "Spoke with daughter-in-law Kathleen about moving
25 Joan in. I explained that we need her doctor's paperwork
26 about her medication, and she still needs to be evaluated
27 by Peggy and, also, bring all her medication with her. I
28 would prefer to move her in during the week because more

1 staff is here and we want to make sure a transition is
2 smooth." (As read.)

3 Q. Okay. Focusing on that statement, "she still needs
4 to be evaluated by Peggy," was that referring to Joan
5 Boice?

6 A. Yes.

7 Q. Okay. And what did that mean?

8 A. The nurse does -- the nurse evaluates the resident
9 to see what level of care she needs.

10 Q. Okay. Would it be your decision, determination of
11 whether Joan Boice was ultimately appropriate or not to
12 move into Emerald Hills?

13 A. That's not my decision.

14 Q. Whose decision was it?

15 A. The nurse.

16 Q. Now, the entry above that, Monday, September 15th,
17 2008, do you recognize an entry by you there?

18 A. It has my name on it.

19 Q. And what did you enter into the "You've Got Leads"
20 system at that time?

21 A. "Called Eric to see how the weekend went with Joan
22 here. I also let him know we need some paperwork back from
23 him along with a check to settle up rent. Asked him to
24 call back." (As read.)

25 Q. So you left him a message?

26 A. Apparently so.

27 Q. All right. If we could turn to page two then.

28 And directing your attention then on the next entry,

1 Tuesday, September 16th, 2:30 p.m.

2 What did you enter into the "You've Got Leads"
3 system at that time?

4 A. I -- it looks like I copied and pasted an e-mail
5 that says, Hi -- "Hey, Eric. I left you a voice mail
6 yesterday. Apparently we have not collected the rest of
7 the paperwork needed to finalize the move-in for your
8 parents. It is in the binders that I gave you last week.
9 If you could bring those back, completed and signed, we
10 will make copies for your records." (As read.)

11 Q. Okay. Let me stop you there. I have a question
12 with regard to these binders.

13 Do you -- do you have a recollection, in general, of
14 what you're referring to with these binders?

15 A. When a resident moved in, the family -- we
16 printed -- the director would print the agreement -- the
17 resident agreement, and we would put it in a binder for the
18 family.

19 Q. Okay. And what paperwork, if you remember, were you
20 needing to get back from Mr. Boice to finalize this whole
21 move-in?

22 A. Honestly, I don't remember.

23 Q. Now, what was the next portion of the e-mail
24 communication that you entered into "You've Got Leads"?

25 A. "Also, we would need to square away rent for your
26 parents for the remainder of September. I have prorated
27 the days and the following breakdown is what is due. You
28 can submit one check and we will allocate the funds where

1 they're needed." (As read.)

2 Q. Okay. And so ultimately, were Mr. and Mrs. Boice
3 charged just for a portion of September?

4 A. It sounds like it. This -- I -- yeah.

5 Q. All right. And then the entry for later that
6 afternoon on September -- Tuesday, September 16th, you made
7 another entry there?

8 A. Yes, I did.

9 Q. Okay. And what did you enter into the system that
10 day?

11 A. "Eric called to say he will be in tomorrow with the
12 paperwork and check."

13 Q. Okay. And do you know as you sit here whether
14 Mr. -- Mr. Eric Boice came in to Emerald Hills on September
15 17th with the paperwork to be completed?

16 A. I would imagine he would. Again, that's a
17 transition that the director would have taken care of.

18 Q. Now, I do want to follow up --

19 MR. REID: Thank you, Mr. Taylor.

20 THE COURT ATTENDANT: You're welcome.

21 Q. (By MR. REID) I wanted to follow up on some of your
22 testimony about your employment, kind of starting at the
23 back. You gave us an explanation yesterday of why you
24 left.

25 If I could ask you to refer to Exhibit 91. And I'll
26 help you grab that.

27 MR. REID: If I may, your Honor?

28 (Pause.)

1 Q. (By MR. REID) I'd like to direct your attention
2 specifically to page 22. So it would be 91, dash, 22.

3 Do you have that in front of you?

4 A. I do.

5 **(Joint Exhibit Number 91, page 22, was marked for**
6 **identification.)**

7 Q. (By MR. REID) Do you recognize your signature on
8 that page?

9 A. Yes, I do.

10 Q. It's a corrective action that was directed to you on
11 March -- well, you signed on March 13th of 2009.

12 A. It says March 11th.

13 Q. Okay. March 11th of 2009.

14 MR. REID: Your Honor, I'd offer this document, page
15 22 of Exhibit 91 into evidence.

16 MS. CLEMENT: The plaintiff has no objection to
17 moving the entire exhibit into evidence.

18 MR. REID: I'm just interested in a couple documents
19 at this time, your Honor.

20 THE COURT: All right. At this point then, just 91,
21 dash, 22 will be admitted out of Exhibit 91.

22 MR. REID: Thank you.

23 **(Joint Exhibit Number 91, page 22, was received into**
24 **evidence.)**

25 MR. REID: And may I display that particular page,
26 your Honor?

27 THE COURT: Yes.

28 MR. REID: Go ahead.

1 Q. (By MR. REID) So in March of 2009 -- well, what is
2 a corrective action -- a corrective action document?

3 A. Well, it's the first one I ever received. It is a
4 written reprimand on something that an employee did not do
5 apparently.

6 Q. Okay. Do you -- do you recall having this --
7 receiving this reprimand from --

8 A. Yes, I do.

9 Q. And who did you receive it from?

10 A. Rich Lee.

11 Q. And who was he?

12 A. He was the executive director that came in after
13 Nancy.

14 Q. All right. And -- and tell the jury what -- I know
15 you had -- you have a dispute to it, but what were you
16 being reprimanded for?

17 A. Well, he's saying that I did not verbally
18 communicate in a stand-up meeting that we would have a
19 physical move-in to the executive director or wellness
20 coordinator.

21 "The family arrived at Emerald Hills and Melissa was
22 not here, and they state they had an appointment to meet
23 with Melissa. When talking with Melissa, she said she did
24 not remember setting a time to meet with the family.
25 Melissa stated that she wrote the move-in on the flash
26 meetings binder and our tracking calendar for move-ins or
27 move-outs. A few things were not prepared for the move-in.
28 First, the keys for the family to the resident's room were

1 missing. This is the second time -- this is the second
2 time on the day of move-in that Melissa did not
3 communicate. The first time a move-in wasn't communicated
4 by Melissa was on 2/2/09." (As read.)

5 Q. And "Melissa," that's referring to you?

6 A. That's correct.

7 Q. Okay. Do you have a copy of this at home, by the
8 way?

9 A. Yes, I do.

10 Q. Did you provide a copy of it to Ms. Clement?

11 A. Yes, I did.

12 Q. When did you do that?

13 A. Um, after I was subpoenaed.

14 Q. Okay. And so you were -- based on this corrective
15 action, it was asserted that you didn't carry out
16 instructions which led to substandard work.

17 A. That's what was said.

18 Q. Okay. And then at the bottom, in fairness, when you
19 signed this document, what did you say?

20 A. I said: I do not agree with the allegations written
21 and will submit my rebuttal by 2/13/09 -- or, excuse me,
22 3/13/09.

23 Q. What other documents did you present to Ms. Clement
24 when you met her at her office?

25 A. My rebuttal. The rebuttal that's attached right
26 here.

27 Q. What else did you give her?

28 A. I don't think I gave her -- I think I just gave her

1 the rebuttal.

2 Q. Okay.

3 A. I don't remember.

4 Q. You didn't have any other documents, other than the
5 corrective action and the rebuttal?

6 A. I -- I don't remember. I have all the documents at
7 home.

8 Q. Well, when did you -- what did you give to
9 Ms. Clement when you met with her in late December or
10 January of this year?

11 A. I gave her this corrective action and the rebuttal.
12 And I don't recall. I'd have to -- I don't know if I gave
13 her the other documents because I didn't know -- I don't
14 remember.

15 Q. Okay. The rebuttal is Exhibit 91, 23, dash, 24,
16 correct?

17 A. Yes.

18 Q. And that has your signature on it?

19 A. Yes, it does.

20 Q. All right.

21 MR. REID: I'd move Exhibit 91, pages 23 and 24 into
22 evidence, your Honor.

23 THE COURT: Any objection?

24 MS. CLEMENT: No, your Honor.

25 **(Joint Exhibit Number 91, pages 23 and 24, was**
26 **marked for identification.)**

27 THE COURT: All right. We'll add in 23 and 24 then
28 as admitted.

1 **(Joint Exhibit Number 91, pages 23 and 24, was**
2 **received into evidence.)**

3 MR. REID: Thank you, your Honor.

4 Q. (By MR. REID) I'm just going to go ahead and go to
5 page 24, the wrap-up portion.

6 In general, though, can you describe -- it's fairly
7 comprehensive. Can you describe to the jury what you were
8 attempting to communicate in your rebuttal statement.

9 A. Do you mean just the wrap-up part or everything?

10 Q. Well, the document -- what was the purpose of the
11 document?

12 A. I didn't believe these allegations were a hundred
13 percent correct. And I didn't feel that this warranted a
14 corrective action. And so I gathered my thoughts and wrote
15 down my rebuttal.

16 Q. Okay. What was your relationship with Mr. Lee like
17 at the time that -- in March of 2009?

18 A. He was my boss.

19 Q. Mm-hmm. Did you get along with him okay?

20 A. Fairly well, yes.

21 Q. Did you respect him?

22 A. That's a hard one. Um, I worked with him. I don't
23 think I had very much respect for him with his lack of
24 knowledge.

25 Q. Now, I do want to ask you a couple questions about
26 page 24. Actually, I just have -- very few.

27 MR. REID: If we could put that up, your Honor? Is
28 that all right?

1 THE COURT: Go ahead.

2 Q. (By MR. REID) In your rebuttal, I'm going to direct
3 your attention to the last --

4 MR. REID: Could you pull up the middle paragraph
5 there, the large one that starts with, "With the
6 introduction..."

7 Q. (By MR. REID) You're kind of making your case
8 there. "In the eight months I've been employed..." what
9 were you communicating there?

10 A. I said, "In the eight months I have been employed
11 with Emerald Hills and the 46 residents I have moved in
12 during this time, the past month has been the first time it
13 has ever been brought to my attention that I have lacked
14 communication with the move-in." (As read.)

15 Q. Okay. And I think you said yesterday you'd been
16 pretty successful, at least from your perspective, in -- in
17 your job of bringing residents into the community.

18 A. I think I was.

19 Q. Okay. And at any of those times when you admitted
20 those residents or -- strike that. Because you didn't
21 admitted the residents. I know that.

22 A. I did not.

23 Q. Did you ever have concern when those people were
24 moving in that they weren't appropriate for being there?

25 A. As I got further into my job, I was starting to
26 question.

27 Q. Okay. Now, I want to now direct your attention to
28 page 20 of Exhibit 91.

1 MS. FORD: Is that admitted?

2 MR. REID: No, but -- not yet.

3 Q. (By MR. REID) That's also a document that has your
4 signature, correct?

5 A. Yes.

6 (Joint Exhibit Number 91, page 20, was marked for
7 identification.)

8 Q. (By MR. READ) Okay. You're acknowledging an e-mail
9 from Mr. Lee to you in April of 2009?

10 A. Yes.

11 Q. Okay.

12 MR. REID: I'd move Exhibit 91, page 20 into
13 evidence, your Honor.

14 MS. CLEMENT: No objection.

15 As I stated, I have no objection to moving the
16 entire exhibit in.

17 THE COURT: All right. Page 20 is admitted in
18 Exhibit 91.

19 (Joint Exhibit Number 91, page 20, was received into
20 evidence.)

21 MR. REID: Thank you.

22 May I display that page, your Honor?

23 THE COURT: Yes.

24 Q. (By MR. REID) What -- do you have a recollection of
25 this e-mail?

26 A. I do.

27 Q. All right. Is this an e-mail that you gave to
28 Ms. Clement in January or December when you met with her?

1 A. I don't -- I don't believe I did.

2 Q. Is this a e-mail you have?

3 A. No.

4 MS. CLEMENT: It's not an e-mail, your Honor.

5 THE WITNESS: It's a --

6 Q. (By MR. REID) Oh, I apologize. I may be -- is this
7 a document you have in your possession?

8 A. I'd have to go back and look. I don't think so. I
9 don't know.

10 Q. Is this a document that you presented to Ms. Clement
11 when you met with her?

12 MS. CLEMENT: Asked and answered.

13 THE COURT: She can answer.

14 THE WITNESS: Um, no.

15 Q. (By MR. REID) Okay. Since you have a recollection
16 of this communication, tell the jury what it involved.

17 A. Do you want me to read that?

18 Q. Actually, not -- not unless you can just tell us,
19 summarize it. If you need to read it, that's okay.

20 A. Okay. I just -- I had a phone call with -- let me
21 just read this.

22 (Pause.)

23 THE WITNESS: I had a phone call with the regional
24 director which was Ronda. And I spoke with our executive
25 director regarding some concerns that I had voiced, as well
26 as job expectations.

27 Q. (By MR. REID) Okay. And do you have a recollection
28 that during the telephone call with Miss Smith and Mr. Lee

1 that you expressed an interest in becoming the memory care
2 neighborhood -- the director of the memory care
3 neighborhood?

4 A. Yes, I did.

5 Q. At that point in time, in April of 2009, was it a
6 desire of yours to stay and work at Emerald Hills in a
7 management position?

8 A. Absolutely.

9 Q. At that point in time, April 2, 2009, which of the
10 46 or so residents that you helped moved into Emerald Hills
11 had you come to determine probably weren't appropriate to
12 live there?

13 A. I -- I don't remember specifically. But I brought
14 my concerns up to the directors and to my immediate boss
15 numerous times.

16 Q. Okay. Do you have any documents that reflect you
17 raising concerns with your -- your supervisors that you
18 just testified about?

19 A. I don't -- I don't think I have any documents. I
20 don't recall. I don't have any documents, I don't believe.

21 Q. All right. Then I'd ask you -- that -- so the date
22 of this conference call was April 2nd, 2009; is that
23 correct?

24 A. I imagine it is.

25 Q. Okay. Do you have any reason to think it wasn't
26 April 2nd of 2009?

27 A. No.

28 Q. Then I'd like you to look at page 19, one page

1 ahead.

2 **(Joint Exhibit Number 91, page 19, was marked for**
3 **identification.)**

4 Q. (By MR. REID) Can you confirm that that's your
5 letter of resignation from Emerald Hills?

6 A. Yes, it is.

7 Q. And what's the date of that letter?

8 A. April 9th.

9 Q. So that was about a week later, after the meeting --
10 the conference call?

11 A. That's -- that's correct.

12 Q. And that's your signature on the letter, correct?

13 A. Yes, it is.

14 MR. REID: All right. I'd move page 19 of
15 Exhibit 91 into evidence, your Honor.

16 MS. CLEMENT: No objection.

17 THE COURT: Nineteen is admitted as part of
18 Exhibit 91.

19 **(Joint Exhibit Number 91, page 19, was received into**
20 **evidence.)**

21 MR. REID: All right. If we could put it up, your
22 Honor?

23 THE COURT: Go ahead.

24 Q. (By MR. REID) Okay. What day did you actually stop
25 working at Emerald Hills?

26 A. Thursday, April 30th, 2009.

27 Q. Okay. So you finished out your two weeks or
28 whatever -- the month with Emerald Hills?

1 A. Yes, I did.

2 Q. And you testified yesterday that you had done all
3 the training for -- to be a RCFE administrator.

4 A. Yes, to understand Title 22 better. Yes, I did.

5 Q. And had you done it by April 2 of 2009, the date of
6 your resignation?

7 A. I don't know if I had completed the course at the
8 time. I don't recall.

9 Q. Did you ever take the test to be an RCFE
10 administrator?

11 A. Yes, I did.

12 Q. And when did you take that test?

13 A. It was towards the end. I'd have to go back and
14 look at my paperwork because I have the documents and the
15 day that I passed. I don't remember.

16 Q. Towards the end of, what, of your --

17 A. Towards the end of my employment. And I believe the
18 test was in June. I can't remember the date of the test.

19 Q. Okay. When did you start doing your RCFE
20 administrator classes?

21 A. It had to be roughly around or after this time is
22 when I took the course.

23 Q. And was there a desire on your part to stay at
24 Emerald Hills and become the executive director?

25 A. My desire was to grow with the company and
26 eventually be groomed into an executive director position,
27 yes.

28 Q. So your last day of employment was April 30th of

1 2009.

2 A. That's correct.

3 Q. Was there ever a time that you called the Department
4 of Social Services to report your concerns about residents
5 living at Emerald Hills that were being neglected?

6 A. No. I --

7 Q. Okay. Did you ever call them --

8 MS. CLEMENT: Objection, your Honor. She didn't
9 complete her answer.

10 THE COURT: She was, but it may be going beyond the
11 scope of the question. It called for a "yes" or "no"
12 answer.

13 Q. (By MR. REID) Did you ever call -- did you ever
14 call the Department of Social Services to report any
15 concerns about staffing levels, or training levels, or the
16 physical operations, improper residents at Emerald Hills?

17 A. I spoke to my director and my regional sales and
18 marketing director.

19 Q. And my question is --

20 A. No.

21 Q. -- did you call the Department of Social Services?

22 A. I did not call the Department of Social Services.

23 Q. Did you call the ombudsman to report any of those
24 things?

25 A. No, I did not.

26 Q. When you left on April 30th, 2009 -- well, back up a
27 step.

28 One of the things you expressed yesterday is a true

1 connection and concern for the residents at Emerald Hills,
2 right?

3 A. That's -- that's correct.

4 Q. Part of your family, right?

5 A. I was close with some of the residents, yes.

6 Q. All right. And so after -- when you left on April
7 30th, 2009, were you concerned about the well-being of
8 those people?

9 A. I was, but I didn't feel like there was anything
10 else I could do. I reported it to my -- my supervisors and
11 my boss. I thought I was going through the proper
12 channels.

13 Q. Okay. Did -- when you were taking your classes as
14 an RCFE administrator, did you learn about the obligations
15 of a mandated reporter?

16 A. Eventually. And I believe that's the director.

17 Q. Is that your understanding?

18 A. I believe so.

19 Q. And you passed the certification to be an RCFE
20 administrator?

21 A. When I passed, I was no longer working at
22 Emerald Hills.

23 Q. Okay. Now, I want to follow up a little bit more
24 about your preparation to testify.

25 A. Okay.

26 Q. Okay. You testified yesterday, if I have this
27 right, and please correct me if I'm wrong, that you had one
28 meeting with Miss Clement or anyone from her office.

1 A. I had a meeting in Lesley's office, yes.

2 Q. Okay. And you had one meeting with her office the
3 entire time this case has been pending, correct?

4 A. Yes.

5 Q. And that -- that's one time that you communicated
6 with anyone from Ms. Clement's office in any way about your
7 experiences at Emerald Hills, correct?

8 A. No.

9 Q. All right.

10 A. That's not correct.

11 Q. So what other communications have you had with
12 Ms. Clement's office about your experiences at
13 Emerald Hills?

14 A. I was contacted by Miss Clement shortly after I
15 terminated my employment from Emerald Hills. She had asked
16 me what I knew about the Boice family. And I cooperated
17 and shared my experiences and as much as I knew. And I
18 gave -- you know, she asked me questions, and I answered
19 her as honestly as I could remember.

20 Q. Wasn't that a face-to-face meeting you had with
21 Ms. Clement shortly after you left?

22 A. No. That was over the phone.

23 Q. Didn't Miss Clement or someone from her office come
24 and interview you at your in-laws' home where you were
25 living at the time?

26 A. Oh, I'm sorry. Yes. But it was not Miss Clement.

27 Q. Who did you meet with then?

28 A. Um, I don't remember her name. I think it might

1 have been Valerie. I'm not quite sure.

2 Q. Did that meeting -- I apologize. I want to
3 understand.

4 Did you -- when I was asking you about your meetings
5 yesterday, did you not remember that meeting?

6 MS. CLEMENT: Objection, your Honor. It's
7 argumentative. And his question yesterday was meeting in
8 person.

9 THE COURT: Sustained.

10 Q. (By MR. REID) Well, when -- you met in person with
11 Valerie shortly after -- when you were living at your
12 in-laws' house?

13 A. Right.

14 Q. And when I was asking you about meetings with
15 Miss Clement or her office yesterday, had you forgotten
16 about that meeting?

17 A. I thought it was -- I thought we were talking about
18 after I had been subpoenaed.

19 Q. So you didn't understand that I was asking you about
20 any time you had a meeting?

21 A. No. And I'm sorry.

22 MS. CLEMENT: Objection, your Honor. It misstates
23 his question from yesterday. And it's argumentative and
24 leading.

25 THE COURT: She can answer.

26 Q. (By MR. REID) So that was a couple years ago that
27 you met with Valerie, Ms. Clement's attorney, correct?

28 A. Yes.

1 MS. CLEMENT: It misstates the evidence. Valerie is
2 not my attorney.

3 MR. REID: That's true.

4 Q. (By MR. REID) Valerie, an attorney with
5 Ms. Clement's office?

6 A. Correct.

7 Q. That meeting was a couple of years ago?

8 A. Yes, it was.

9 Q. And it lasted between an hour and two hours,
10 correct?

11 A. I -- I don't know how long it was lasted. It was a
12 little while, yes.

13 Q. And at that point in time, when you met with the
14 lawyer with Miss Clement's office, did you talk about --
15 what did you talk about?

16 A. They asked me my experience with the Boice family.
17 I'm sure they asked me about my work history. It's been
18 so long. I just -- I don't remember everything that they
19 asked me.

20 Q. When was the first time that you told anybody
21 affiliated with Ms. Clement's office about this
22 conversation that you had with Miss Smith, where she
23 apparently, as you recall, told you to go in your office,
24 shut the blinds, lock the door, and sell the building?

25 A. When was the first time?

26 Q. Right.

27 A. It could have been with that meeting. I don't
28 remember.

1 Q. So was it your expectation that when Miss Clement
2 was questioning you, she already knew that you had that --
3 you were going to give that testimony?

4 MS. CLEMENT: Objection, your Honor. It's vague and
5 argumentative.

6 THE COURT: Counsel approach, please.

7 (Whereupon an unreported bench conference was then
8 had in open court between the Court and counsel.)

9 THE COURT: All right. The objection is sustained.
10 Please rephrase.

11 Q. (By MR. REID) So did you have any understanding
12 yesterday whether Miss Clement was aware of this statement
13 that Miss Smith supposedly made to you about you going in
14 office, closing the blinds and selling the building?

15 A. Prior to?

16 Q. Yesterday.

17 A. Yes.

18 Q. Okay. Now, as of January 2012, I want to ask you
19 about your state of mind and your thoughts about Emeritus
20 and Emerald Hills. Okay?

21 A. Okay.

22 MS. CLEMENT: May I -- I'm sorry. January 2012?

23 MR. REID: Correct.

24 Q. (By MR. REID) A year ago -- a year ago this month.
25 Okay?

26 A. Okay.

27 Q. Focus at that time.

28 A. I'll try.

1 Q. All right. Do you recall being of the mind that you
2 loved working for Emeritus?

3 A. I loved working with the residents. And in the
4 beginning, I was excited to work with Emerald Hills, yes.

5 Q. Miss Gratiot, when you were asked in January of 2012
6 about working at Emeritus, didn't you say that you loved
7 working for Emeritus?

8 MS. CLEMENT: Objection; it's vague. Asked by whom?
9 Where? What?

10 THE COURT: Can we be more specific, please.

11 Q. (By MR. REID) Do you remember giving a statement to
12 representatives of Emeritus in January of 2012 about your
13 job experience?

14 A. Um --

15 MS. CLEMENT: It's still vague, your Honor.

16 MR. REID: In January, 2012.

17 THE COURT: You're going to have to be more
18 specific.

19 Q. (By MR. REID) Okay. Do you remember speaking to
20 Miss Kim Wells in January of 2012 for about an
21 hour-and-a-half on the phone --

22 A. Yes.

23 Q. -- about your experience?

24 A. Yes, I do.

25 Q. Okay. And do you remember telling her that you
26 loved working for Emeritus?

27 A. Yes, I do.

28 Q. And do you remember telling her that you loved

1 working at Emerald Hills?

2 A. Yes, I did.

3 Q. And do you remember telling her that while you were
4 working at Emerald Hills, you met Granger Cobb, who was the
5 co-CEO and president of Emeritus at that time, and you
6 thought he was extremely nice and caring?

7 A. I did not personally meet him. I may have. But we
8 were in a company-wide meeting, and I saw him and listened
9 to him speak. And I was -- I was impressed with him. I
10 thought he was very caring -- I thought he was very
11 dedicated, yes.

12 Q. Okay. And do you remember telling Miss Wells that
13 you would still be working at Emerald Hills today if you
14 hadn't been forced out by Mr. Lee and Miss Smith?

15 A. I'm sure I said that to her.

16 Q. And do you remember telling her that you thought
17 Nancy Cordova was a competent executive director?

18 A. At the time I felt she was, yes.

19 Q. And do you remember telling Miss Wells in January of
20 2012, that you liked Peggy; you thought she was good at her
21 job; and you never had any concerns about her abilities to
22 do her job?

23 A. I never questioned her ability to do her job. I
24 liked her. I got along with her.

25 Q. Okay. Did -- did you -- did you make that statement
26 to Miss Wells?

27 A. Yes, I did.

28 Q. And do you remember when Miss Wells asked you about

1 your recollections of the Boice family, you told her you
2 had no recollection whether you were there the day
3 Mrs. Boice moved in?

4 A. I don't recall I said that.

5 Q. In January of 2012, did you have a recollection of
6 the day Mrs. Boice moved into Emerald Hills?

7 A. I was there the day that they were there, yes.

8 Q. Okay. And in January of 2012, when you were asked
9 about the day Mrs. Boice moved in, didn't you tell
10 Miss Wells you didn't remember that day?

11 A. I don't recall saying that to her.

12 Q. Do you remember telling Miss Wells that -- that --
13 that you did, indeed, remember Mr. Myron Boice visiting
14 Joan Boice every day, at least while you were working
15 there?

16 A. Mr. Boice went over to the memory care neighborhood
17 to visit his wife often, yes.

18 Q. Okay. And do you recall telling Miss Wells that in
19 January of 2012, you recalled that he was worried about his
20 wife because she had dementia?

21 A. Well, she was in the memory care neighborhood, so
22 she was progressing with dementia, yes. I would imagine.

23 Q. Okay. Okay. I'm going to ask -- I want to be real
24 specific.

25 Do you remember telling Miss Wells that Mr. Myron
26 Boice told you he was worried about his wife because she
27 had dementia?

28 A. I -- honestly, I don't remember saying that.

1 Q. Do you remember telling her that he was worried
2 about his wife because he wasn't living with her any more?

3 A. I don't recall if I said that or not. I could have.
4 I don't remember.

5 Q. Do you remember telling Miss Boice (sic) that
6 Mr. Boice expressed --

7 THE COURT: Remember telling Miss Boice?

8 MR. REID: I apologize.

9 Q. (By MR. REID) Do you remember telling Miss Wells
10 that Mr. Myron Boice told you he was concerned because he
11 wasn't able to personally take care of his wife any more?

12 A. I -- I don't recall if I said that or not. It's
13 been over a year since I spoke with her.

14 Q. Now, when you had that hour-and-a-half telephone
15 call with Miss Wells, do you remember saying anything about
16 people being neglected at Emerald Hills?

17 A. I was very honest with her about -- everything that
18 I shared with her is the same stuff that I shared with
19 Clement. And I do remember telling Miss Wells that I was
20 probably telling her more than I should have. And I tried
21 to be as honest as I could.

22 Q. Okay. I'm going to ask you real specifically, did
23 you tell Miss Wells in January of 2012, that you remember,
24 that you thought people were being -- residents were being
25 neglected at Emerald Hills when you worked there?

26 A. I'm sure I did.

27 Q. So the meeting -- you had the meeting with Valerie,
28 the attorney affiliated with Ms. Clement's office a few

1 years ago?

2 A. Right.

3 Q. And you had the meeting with Ms. Clement in January
4 that lasted about a half an hour?

5 A. I -- I think I said yesterday I didn't remember if
6 it was December or January.

7 Q. Right.

8 A. It was about -- yeah. Yes.

9 Q. Okay. Has there been any other communications in
10 any form or fashion between you and representatives of
11 Miss Clement's office since you left Emerald Hills?

12 A. Yes.

13 Q. What other communications have you had?

14 A. Um, with phone conversations and e-mails with
15 Miss Clement.

16 Q. How many phone conversations have you had with
17 Ms. Clement?

18 A. I don't know how many. Um, since I've been
19 subpoenaed, I've called her numerous times. I've never
20 been on the stand before. I don't know what to expect and
21 what kind of things are going to be asked and how should I
22 prepare.

23 Q. So can you estimate for us how many times you've had
24 calls like -- in that fashion with Miss Clement since you
25 were subpoenaed?

26 A. I don't have a number. But I know that I spoke with
27 her numerous times.

28 Q. Okay. Well, when were you subpoenaed?

1 A. Um, I think it was mid or late October.

2 Q. Okay. And then in addition to the telephone
3 conversations you've had with Miss Clement, you also had
4 e-mail communications with her?

5 A. Yes.

6 Q. And how many e-mails have you exchanged with
7 Miss Clement?

8 A. I don't know. I didn't -- I haven't kept track. It
9 was -- I don't know.

10 Q. One or two? Or ten or twenty? Can you give us an
11 estimate?

12 A. I don't think I had 20. I don't know the exact
13 number.

14 Q. When was the last e-mail that you got from
15 Miss Clement?

16 MS. CLEMENT: Objection.

17 THE COURT: Overruled.

18 MS. CLEMENT: It's leading. "That you got from
19 Miss Clement." That wasn't her testimony.

20 THE COURT: Overruled.

21 THE WITNESS: Um, I don't -- it was within the last
22 week or so, I would imagine.

23 Q. (By MR. REID) What were -- what were -- what was in
24 the e-mails that you were exchanging with Ms. Clement or
25 her office?

26 A. I shared with her things -- let's see. When I spoke
27 with her -- at some point, I journaled things that I
28 remember about Emerald Hills and my experiences. And I

1 know that I've sent that to her. She's e-mailed me, asking
2 me if I've recognized documents or if they were in
3 publication when I was working there.

4 Q. Okay. So now I want to focus on the time frame
5 between when Ms. -- Valerie, the lawyer from -- with
6 Ms. Clement's office, met with you at your in-laws' house a
7 couple years --

8 A. It's my mother's house.

9 Q. I apologize. Your mother's house.

10 Between that time and the time you got the subpoena,
11 what communications did you have in any form or fashion
12 with Ms. Clement or her office?

13 A. From when I met with Valerie?

14 Q. Correct.

15 A. I didn't talk to -- I haven't talked to them often.
16 Mostly since the subpoena started, I believe.

17 Q. Okay. So do you think there was no communications
18 between you and Ms. Clement's office in any way, shape, or
19 form between the meeting at your mom's house with Valerie
20 until you got the subpoena?

21 A. I'm sure there was, but I don't recall.

22 Q. Why are you sure there was communications?

23 A. She probably had asked me further questions or
24 follow-up. I don't remember.

25 Q. Have you been -- haven't you been helping
26 Ms. Clement prepare the case against Emerald Hills?

27 A. I've given her information that I know, but I
28 haven't helped her prepare for the case.

1 Q. Now, within the last two weeks, we, on behalf of
2 Emerald Hills, reached out to you to try to talk to you
3 about your testimony, right?

4 A. That's correct.

5 Q. And we asked an investigator to go and get a
6 statement from you, right?

7 A. I was unaware he called me.

8 Q. Okay. He actually went and he knocked on your door.

9 A. A strange gentleman knocked on my door during the
10 day when I was home alone, yes.

11 Q. Okay. And you knew he was somebody there to ask you
12 questions about -- about your experience at Emerald Hills
13 and your testimony in this trial, right?

14 MS. CLEMENT: Leading and lacks foundation.

15 THE COURT: She can answer.

16 THE WITNESS: After he sat in my front yard for at
17 least 20 minutes, I realized it must be this private
18 investigator. And I did not want to answer the door
19 because I do not answer the door to strangers when I'm home
20 alone.

21 Q. (By MR. REID) He made it clear that he wanted to
22 talk to you about what you were going to testify to in
23 trial, right?

24 A. I didn't feel like I had any more to say.

25 Q. And did he make that clear to you?

26 A. He said he had a couple follow-up questions.

27 Q. Okay. And he identified himself as being affiliated
28 with Emeritus, right?

1 A. On the phone, yes.

2 Q. And you didn't give him any information, did you?

3 A. No, I did not.

4 Q. You picked up the phone and you called Ms. Wells'
5 assistant, didn't you?

6 A. Yes, I did.

7 Q. And you told her you were going to call the police
8 if that man didn't leave your house, right?

9 A. I don't know if I threatened to call the police. I
10 said situations like this would make me want to call the
11 police.

12 Q. Do you still have the e-mails that you've been
13 exchanging with Ms. Clement?

14 A. I had no reason to keep them. No.

15 Q. So they're all deleted?

16 A. I would imagine most of them are deleted, yes.

17 Q. Were those sent to your -- what's your e-mail
18 account?

19 A. I don't -- do I have to give my e-mail address to
20 you?

21 Q. I'd like -- do you not want to share with me your
22 e-mail address?

23 A. I just think that's personal.

24 Q. Did you share it with Ms. Clement?

25 A. Yes.

26 MR. REID: Your Honor, those are all the questions I
27 have. Thank you.

28 THE COURT: Miss Clement?

1 MS. CLEMENT: Yes, your Honor.

2 THE COURT: Well let me ask you this, because we are
3 kind of at our break time. Are you going to be -- have
4 more than, say, five minutes or so of questions? If so,
5 we'll take our break now.

6 MS. CLEMENT: I don't think so.

7 THE COURT: All right.

8 MS. CLEMENT: At this time, your Honor, plaintiffs
9 would seek to move into evidence all of Exhibit 91.

10 THE COURT: Is there any objection?

11 MR. REID: Yes, your Honor.

12 THE COURT: What is the objection?

13 MR. REID: The objection is that there's no
14 foundation for all of Exhibit 91.

15 MS. CLEMENT: Your Honor, Exhibit 91 was produced by
16 the defendants -- it was under subpoena -- at the
17 deposition of Sharon Davis in June of 2011. It was
18 authenticated. It's part of personnel files, of which we
19 gave proper notice three months in advance. All of the
20 other personnel files besides Miss Gratiot's were moved
21 into evidence. And the defendant has moved in selected
22 pieces of this personnel file.

23 THE COURT: Ladies and gentlemen, we're going to
24 take our morning break now. Leave your notebooks on the
25 chairs. Remember the admonitions. I'll see you back at
26 five after 11:00.

27 You can step down.

28 THE WITNESS: Thanks.

1 **(The following proceedings were then had in open**
2 **court, outside the presence of the jury.)**

3 THE COURT: All right. Be seated.

4 MR. REID: Your Honor, I apologize. I will withdraw
5 my objection and allow the entire document to be moved into
6 evidence.

7 THE COURT: All right. Let's take our break.

8 What time did I tell them to come back? Five after,
9 I think?

10 MS. HULSE: Yes.

11 THE COURT: Yes. We'll see you back at five after
12 11:00.

13 (Recess.)

14 (Change of court reporters.)

15 ---o0o---

1 **(The following proceedings were held in open court, in the**
2 **presence of the jury:)**

3 COURT ATTENDANT: At this time come to order.
4 Department 45 is once again in session. The honorable Judge
5 Judy Hersher now presiding. You may be seated.

6 THE COURT: All right. Based on agreement of Counsel,
7 the Court is going to admit Exhibit 91 in its entirety.

8 **(Joint Exhibit 91 was marked and admitted into evidence.)**

9 THE COURT: Please proceed.

10 MS. CLEMENT: Thank you, your Honor.

11 Debbie -- oh, there is Terrance. Would you mind
12 getting the lights? We are going to put up Exhibit 91, page
13 26.

14 REDIRECT EXAMINATION

15 BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of
16 the Plaintiffs:

17 Q Do you remember yesterday Mr. Reid, right before we
18 broke, he was questioning about this exhibit, the onboarding
19 checklist and challenging your testimony that you had gotten
20 this training?

21 A Yes, I do.

22 Q And when you were looking at that exhibit what were
23 you feeling?

24 MR. REID: That's vague, your Honor.

25 THE COURT: Sustained.

26 Q (By MS. CLEMENT) What was your reaction when you were
27 looking at that document?

28 A Well, it didn't -- it doesn't look like the document

1 that I have, and I lost my train of thought because when I
2 resigned I received my employee file and this is -- this
3 doesn't look like the document that I have and so I was
4 confused.

5 Q So, Erik, can you just take us up and show us the rest
6 of this document? So if you would cut it up just so we can
7 actually see what it says? All right.

8 And on the dates on the right-hand side there, was
9 every date listed as, um, 7/19/08?

10 A That's what it says, except for it looks like the
11 marketing director and the department specific orientation.

12 Q Okay. So after you left last night, um, did you call
13 me?

14 A Yes, I did.

15 Q And what did you tell me when you called me last
16 night?

17 A I went home after I saw this document -- because it
18 doesn't look like the document I have with my employee
19 files, I went home and checked and this document doesn't
20 look like the -- the file that I have in my employee file.

21 Q And, Erik, could you put up exhibit number 2 -- oh,
22 your Honor, we would seek -- can you turn behind you and
23 grab that binder that's opened?

24 A This one?

25 Q Yes. It's open to Exhibit 291. Can you tell the
26 jurors what Exhibit 291 is?

27 **(Joint Exhibit 291 was marked for identification.)**

28 THE WITNESS: Um, it's the part of my employee file

1 that I submitted to Ms. Clement this morning.

2 Q (By MS. CLEMENT) Erik, can you take us up to the top
3 of this particular exhibit, Exhibit 91?

4 And does Exhibit Number, um, 291 --

5 THE COURT: Wait, wait.

6 MS. CLEMENT: This is still Exhibit 91.

7 THE COURT: Okay.

8 MS. CLEMENT: It's confusing because we ended up
9 having the same last two numbers.

10 Q (By MS. CLEMENT) The employee onboarding checklist,
11 did you go home last night and look in your personnel file
12 that you took with you when you left Emeritus in April of
13 2009?

14 A Yes, I did.

15 Q Okay. Did you find your employee onboarding
16 checklist?

17 A I did.

18 Q And did you bring it to my office this morning?

19 A Yes, I did.

20 Q And is Exhibit 291 the employee onboarding checklist
21 that was in your personnel file when you left the community?

22 A Can you repeat that?

23 MR. REID: Lacks foundation, your Honor.

24 Q (By MS. CLEMENT) Was Exhibit --

25 THE COURT: Overruled.

26 Q (By MS. CLEMENT) -- 291 the employee onboarding
27 checklist that you -- that was in your personnel file that
28 was copied for you by the facility when you resigned?

1 A The one that I brought this morning was, yes.

2 Q Okay. And is that in the binder that says Exhibit
3 291?

4 A Yes.

5 MS. CLEMENT: At this time we would seek to move into
6 evidence Exhibit 291, your Honor.

7 THE COURT: Is there any objection?

8 MR. REID: No, your Honor.

9 THE COURT: 291 is admitted.

10 **(Joint Exhibit 291 was admitted into evidence.)**

11 Q (By MS. CLEMENT) Is there any indication anywhere on
12 the employee onboarding checklist that was in your personnel
13 file when you left in April of 2009 that you got any
14 training by anyone?

15 A No.

16 Q Did you look up to see the date of the week that the
17 Exhibit 92 -- yeah, Exhibit 91, page 26, 7/19/08, did you
18 look that up on your calendar to see what date that was?

19 A Yes, I did.

20 Q And what day of the week was that?

21 A Saturday.

22 Q And did you get training at all on a Saturday, July
23 19th, 2008, from Nancy Cordova?

24 A No, I did not.

25 Q Peggy Stevenson?

26 A No, I did not.

27 Q How about Chris Garibaldi, the maintenance director,
28 did you get any, um, training from him on that date?

1 A No.

2 Q How about Alicia Parga?

3 A No.

4 Q Thank you, Erik.

5 Erik, can you please put up Exhibit 178, page 12?

6 I don't think you need to look for it because it's
7 going to be big.

8 Is this part of the, um, packet that Mr. Reid was
9 showing you in Exhibit 178 that included the, um, "We got
10 leads" information that you had written up about the, um,
11 Boice family?

12 A Today?

13 Q Yes.

14 A I -- I think so. I would have to look.

15 Q Okay. I will help you find it. I will help you find
16 it.

17 A What number is it?

18 Q It's 178. You can move that just behind you. You
19 don't have to worry about it.

20 A Do I need this one anymore?

21 Q No.

22 Do you see that, page 12 of Exhibit 178?

23 A Yes.

24 Q Does that indicate that Kathleen Boice brought a check
25 to Emerald Hills for \$2,500 for Joan and Myron Boice?

26 MR. REID: Your Honor, it lacks foundation.

27 THE COURT: We are now in Exhibit 128?

28 MS. CLEMENT: 178, that's been moved into evidence.

1 THE COURT: What's the page number of that check,
2 please?

3 MS. CLEMENT: 12, your Honor.

4 THE COURT: That was admitted into evidence.

5 MS. CLEMENT: 7 through 14.

6 THE COURT: So the objection of lacks foundation is
7 what?

8 MR. REID: Is that she has had no involvement with
9 finances she told me, and she wouldn't know -- I don't know
10 how she would know what that is.

11 THE COURT: Okay. Well, why don't you ask her the
12 question about if she had any personal knowledge.

13 MS. CLEMENT: Okay.

14 Q (By MS. CLEMENT) Did you have an understanding based
15 upon the negotiations that, um, were in the e-mail to Eric
16 Boice that was also part of this exhibit that Joan and Myron
17 Boice would be paying a \$2,500 community fee?

18 A That they were going to bring a check in, yes, and the
19 community fee was on here.

20 Q Okay. And then, um, let's see Exhibit 178.

21 Mr. Reid asked you questions about prorating for the
22 month of September of 2008. Do you remember that?

23 A Yes.

24 Q So the Boices weren't -- weren't getting free days,
25 right?

26 A No. It's prorated.

27 Q Right. They were paying for the day -- from the day
28 they moved in, true, September 12th?

1 A I -- I guess, yes.

2 Q That's what you did for -- for everybody who moved
3 into Emerald Hills, right?

4 A The -- the --

5 MR. REID: That lacks foundation, your Honor.

6 Q (By MS. CLEMENT) Was that your instruction as -- I'm
7 sorry, Judge. I will withdraw and rephrase.

8 THE COURT: All right.

9 Q (By MS. CLEMENT) Was it your training that you would
10 be prorating the rent for people who moved in from the day
11 that they moved into the facility if they moved in on a date
12 other than the 1st of the month?

13 A The rent was prorated and that was up to the executive
14 director to negotiate the finances.

15 MS. CLEMENT: I have no other questions. Thank you.

16 THE COURT: Mr. Reid?

17 MR. REID: Yes. Thank you, your Honor. Very briefly.

18 RECROSS-EXAMINATION

19 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the
20 Defendant:

21 Q Um, so other than Exhibit 291 did you give Ms. Clement
22 any other documents since yesterday and today?

23 A No. I gave her that -- that file right there or that
24 piece of paper from my file.

25 Q All right. And, um, so when you left Emerald Hills on
26 April 30th, 2009, you got a copy of your personnel file?

27 A That's correct.

28 Q And what did you do with that?

1 A I left it at home. It's in my files.

2 Q Okay. They have been there ever since?

3 A Yes.

4 Q So is it -- now, we -- yesterday we established that
5 you did meet with Nancy Cordova, Peggy Stevenson, the
6 activities person, the maintenance person, the business
7 office director, you met with all of those people and were
8 oriented?

9 A I was not oriented. I mentioned that there was a
10 brief overview of each department.

11 Q Okay. You met with each person individually?

12 A Um, to my recollection I believe I did.

13 Q All right. And is it -- is it your, um, assertion
14 that Exhibit 91, 26, um -- can you put that up? Sorry.

15 COURT ATTENDANT: That is okay.

16 MS. CLEMENT: Erik can put it up for you if you want.

17 Q (By MR. REID) Okay. So Exhibit 91, 26, um, you did
18 indeed meet with all of the people whose initials are on
19 that form, correct?

20 A I believe I did briefly, yes.

21 Q Okay. But your -- your assertion is that the initials
22 and lines were put on after you left Emerald Hills?

23 A My copy in my employee file does not have the initials
24 on that document.

25 Q Okay. So when -- do you know if there were duplicate
26 copies of, um, Exhibit 26 in your file when you left?

27 A No.

28 Q Um, how did you keep the documents in your home? You

1 said they are in a file. What kind of a file?

2 A In a file cabinet.

3 Q In -- in a --

4 A In my office.

5 Q -- Folder? I'm sorry.

6 Manila folder or --

7 A Like -- yeah, a filing folder.

8 Q So I'm going to show you Exhibit 291.

9 Sorry, Mr. Taylor.

10 COURT ATTENDANT: Don't worry about it.

11 MR. REID: Thank you.

12 Q (By MR. REID) I'm going to put these side by side.

13 291 is the one you gave to Ms. Clement last night and here's
14 Exhibit 26.

15 Now, if, um, if indeed Exhibit 26 -- 91, 26 was filled
16 out after you left, um -- pardon me -- um, is it also --
17 would it also be your contention that, um, Emeritus was able
18 to fill in these, um, binder holes when they filled out the
19 document?

20 A Um, I don't know.

21 Q Okay. So you don't know whether there is multiple
22 copies or not?

23 A I just have the copy that I have.

24 MR. REID: Thank you. Those are all of the questions
25 I have.

26 THE COURT: Anything else?

27 FURTHER REDIRECT EXAMINATION

28 BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of

1 the Plaintiffs:

2 Q Ms. Gratiot, exhibit, um -- Erik, could you put up 91,
3 26, please? Mid-section, resident services director.

4 When you left did you get a complete copy of your
5 personnel file?

6 A I think so.

7 Q Is that what you asked for?

8 A Yes, I did.

9 Q And was Peggy Stevenson still working there --

10 A Not --

11 Q -- in April of 2009?

12 A No, she was not.

13 Q How about Nancy Cordova?

14 A No, she was not.

15 Q Melissa Malek?

16 A No.

17 Q And in this section it talks about all of these
18 videos. Did you watch any videos?

19 A No, I did not.

20 Q How much total time -- was this just like a meet and
21 greet with each person that you saw at the facility?

22 A It -- it was. It was just a brief overview with
23 meeting each department head and just basically what they
24 do.

25 MS. CLEMENT: Thank you. No further questions.

26 MR. REID: No more questions, your Honor.

27 THE COURT: Ladies and gentlemen, do you have any
28 questions for the witness?

1 Please approach.

2 (Sidebar conference was held.)

3 THE COURT: So I know, ladies and gentlemen, it's
4 often difficult in what appears to be the silence, my staff
5 included and you included, but just for the dignity of the
6 proceedings, generally speaking, if everybody could stay
7 calm, collected, no joking around, I would appreciate it.

8 All right. So we allow our jurors to ask questions
9 and sometimes they ask questions because they want some
10 follow-up or they didn't understand or they need further
11 clarification. So I'm going to ask you the question and you
12 should then turn and respond to our jury. Just don't get
13 worried, we have a very active jury asking questions.

14 THE WITNESS: I have just never heard of that before.

15 THE COURT: I know, a lot of people haven't, but we
16 are in the 21st century now. Okay.

17 When you spoke with perspective residents, did you
18 ever share with them that there would -- there may not be a
19 nurse in the building at all times?

20 THE WITNESS: I -- I don't believe that I did, no.

21 THE COURT: To clarify, in your position as the
22 community relations director, once a perspective resident
23 made an agreement to move in, verbal or otherwise, what, if
24 anything, was your next responsibility?

25 THE WITNESS: My next responsibility was to assure
26 them to the executive director and to the nurse to have them
27 do their evaluation and then to have the executive director
28 work through the contract, to sign the contract with them.

1 THE COURT: Were you uncomfortable with pressure to
2 collect a check before a potential resident and their family
3 left?

4 THE WITNESS: Sometimes I was. Yes, I was.

5 THE COURT: The phrase "safely somewhere", um, to your
6 understanding, what did that phrase mean to you?

7 THE WITNESS: As residents age a lot of residents are
8 hesitant to leave from their home and they want to stay home
9 and that's where a lot of falls and things like that happen,
10 a lot of elders live alone, and Emeritus was to provide a
11 place that they could be safely somewhere with eyes on them.
12 That was my understanding.

13 THE COURT: When did you meet with Ronda Castleberg to
14 voice your concerns about not being able to sell the
15 building?

16 THE WITNESS: A specific date?

17 THE COURT: Well, they -- they have in parenthesis
18 when the quota changed from four to five move-ins to ten per
19 month.

20 THE WITNESS: When -- when -- I believe it was after
21 Nancy left. And she -- every month she would come to me
22 and, you know, Can you sell ten residents? Can you do this?
23 And as an employee I want to do my job and I want to say
24 yes; otherwise, I'm going to look like I'm not cooperating
25 so I would say yes --

26 THE COURT: Okay. But here's the question: The
27 question is sort of to try to place it in time.

28 THE WITNESS: Oh, okay.

1 THE COURT: When did you meet with her? If you can
2 give us a year and maybe a month.

3 THE WITNESS: Probably -- it would have been, I
4 believe, after Nancy left, and I think that was after
5 December or mid-December.

6 THE COURT: Of what year?

7 THE WITNESS: Um, 2008 or early 2009.

8 THE COURT: After you told her your concerns and she
9 said, Go to your office, shut the blinds and sell the
10 building, um, how, if at all, did you respond to that
11 statement?

12 THE WITNESS: I did what she asked me to do.

13 THE COURT: Was there any further, um, conversation
14 about the topics you raised with her?

15 THE WITNESS: I believe I voiced my opinions over and
16 over to Ronda and to my -- my direct boss, yes.

17 THE COURT: This juror is referencing Exhibit 288 and
18 the possibility -- the possibility of a slow and gradual
19 move-in to the site.

20 Was a resident's rent prorated if he or she stayed at
21 the facility only two or three days a week to adjust to
22 living at the facility?

23 THE WITNESS: I wouldn't know the answer because I
24 never had that situation happen. So I -- I don't know the
25 answer. I -- I would image it would be.

26 THE COURT: If you know, this juror says that the
27 papers she has been looking at where you talk about level of
28 care, they have also heard the phrase "acuity level." Do

1 those two things mean the same thing to you, acuity and
2 level of care?

3 THE WITNESS: I believe so, yes.

4 THE COURT: Could you clarify for us, please, what you
5 would explain to residents about, um, Emeritus taking
6 residents to doctor's appointments?

7 THE WITNESS: It was my understanding that we had a --
8 a bus that would take residents to any doctor's appointments
9 and that we would be able to accommodate that for them at
10 their will.

11 THE COURT: Do you recall having any conversation with
12 Joan Boice's family about the ability to take her to
13 doctor's appointments?

14 THE WITNESS: Um, I probably wouldn't have talked with
15 them about that. Myron did have a vehicle, so he was
16 independent and could probably take her if he needed to.

17 THE COURT: This juror notes the difference in cost
18 between Myron's care in the assisted living facility and
19 Joan's cost in the Memory Care Unit and they calculated it
20 around \$3,100 a month difference. Why the difference in
21 cost?

22 THE WITNESS: Because Myron was considered basically
23 independent. He didn't need any help with any of his
24 activities of daily living and Joan did. And they both
25 lived on different sides of the community where Myron was
26 independent, Joan needed more help.

27 THE COURT: So how much more care, if you know, did
28 Joan require than Myron?

1 THE WITNESS: I don't know exactly. That would be
2 what the nurse would have done with her level of care in her
3 assessment. But beings that she needed help with her walker
4 and -- and Myron was more independent, I would believe she
5 would need a little bit more care than he did.

6 THE COURT: Did you believe that the resident director
7 at the facility could have done something to improve the
8 conditions at Emerald Hills?

9 THE WITNESS: I think we all tried to. I just think
10 that we just didn't have enough staff to do what we needed
11 to do.

12 THE COURT: This juror wants to know, um, if you know
13 how Mr. Reid would know that a meeting was held in your
14 in-law's house?

15 THE WITNESS: I have no idea.

16 THE COURT: Do you believe you were being followed at
17 any time?

18 THE WITNESS: I -- I don't know.

19 THE COURT: How did you feel when you saw the sheet
20 that said you got training in your file with the notations
21 and initials and you had a blank sheet in your file?

22 THE WITNESS: Um, I felt confused, and I -- I lost my
23 train of thought because I know that that is not what the
24 sheet was that I had at my house and I was -- I just was
25 confused.

26 THE COURT: Before you would tour the facility with
27 potential new residents, um, was the facility cleaned up
28 other than the regular or daily cleaning?

1 THE WITNESS: Yes. And I would do a walk-through of
2 the entire community to make sure that everything was --
3 looked ready for a tour.

4 THE COURT: Um, one of the documents referenced a
5 special lunch for a potential move-in. Could you explain
6 what a special lunch might be?

7 THE WITNESS: We would invite a potential family to
8 come back and have lunch in our dining room and possibly
9 meet up with another resident that has had a positive
10 experience that could tell them a little bit more about the
11 community. It's a scary thing for them to come in and it
12 might help to have another senior talk with them versus the
13 staff.

14 THE COURT: Could Joan and Myron have shared a room?

15 THE WITNESS: No, I don't believe so.

16 THE COURT: And why -- why do you not believe they
17 could have shared a room?

18 THE WITNESS: Because she needed to be in the Memory
19 Care Neighborhood and a fully independent resident does not
20 belong in the Memory Care Neighborhood.

21 THE COURT: Did the hospitals or other outside
22 locations that you visited get a kickback or percentage for
23 helping locate a person who ultimately wound up at Emerald
24 Hills?

25 THE WITNESS: The hospitals and the nursing homes did
26 not, no.

27 THE COURT: In your position at Emerald Hills did you
28 have any contact with Mrs. Boice or her family other than

1 through the sales process?

2 THE WITNESS: Not Mrs. Boice, no.

3 THE COURT: How about her family?

4 THE WITNESS: No -- Eric. I met Eric once. That's
5 it.

6 THE COURT: Um, the juror noted that on Exhibit 178 at
7 page 13 there was a list of prices for, um, the facilities.
8 Do you want to take a look at it again?

9 THE WITNESS: What exhibit is that?

10 THE COURT: Exhibit 178.

11 Do we have it? It's Exhibit 178, page 13. Can we
12 just put that up?

13 Whichever juror gave this question to me, is that the
14 page you were talking about?

15 MS. CLEMENT: I think it might be the spreadsheet.

16 THE COURT: Excuse me.

17 ALTERNATE JUROR: Yeah, bottom of -- of the --

18 THE COURT: I'm sorry?

19 ALTERNATE JUROR: The bottom of that paragraph.

20 THE COURT: Oh, I hope the spreadsheet makes sense.

21 Okay. Is there a spreadsheet attached? What page number?

22 MR. REID: It's the next page, 14.

23 THE COURT: Could we go to page 14, please? Okay.

24 What was your understanding, if any, of how, um,
25 Emeritus came up with the numbers that are on this sheet?

26 THE WITNESS: I believe that was done by the executive
27 director based on speaking with the family.

28 THE COURT: All right. Thank you.

1 With respect to Exhibits 6, 7 and 8 -- does anybody
2 have those?

3 MS. CLEMENT: Yeah.

4 THE COURT: Can we put up 6, please?

5 I don't think the jury has actually been shown these
6 exhibits, although they have been admitted into evidence.
7 So these were the brochures that you talked about that you
8 gave the Boice family. Do you recall that?

9 THE WITNESS: Yeah. Those would be part of the
10 brochure packet.

11 THE COURT: Okay. All right. So, um, could you flip
12 to 7?

13 MS. CLEMENT: I think it's just the -- there is a next
14 page to this. It's a tri-fold.

15 THE COURT: Okay. Can you just quickly go through
16 these, please, so the jury can see what we are talking
17 about? Keep going. Next page. Next page.

18 And I assume, ladies and gentlemen -- well, I know you
19 will have these exhibits with you in the jury room, although
20 they have not been shown to you, um, during the testimony.

21 And this -- this juror wants to know whether or not,
22 um, was there anything that was claimed in these brochures
23 that you believed was untrue?

24 THE WITNESS: I wouldn't know because I never did the
25 "Join their Journey" training, so I don't know.

26 THE COURT: All right. This juror wants to know if
27 you ever did not tell the truth in order to make a sale?

28 THE WITNESS: I don't believe so. I was very honest

1 with the perspective residents.

2 THE COURT: We heard some testimony about an
3 investigator trying to talk with you. This juror wants to
4 know whether or not you have ever spoken with an
5 investigator prior to being a witness here today for this
6 case?

7 THE WITNESS: Oh, for this case?

8 THE COURT: Yes.

9 THE WITNESS: Um, I believe Ms. Clement's office when
10 they came to visit me, yes.

11 THE COURT: Did Emerald Hills add a salad bar after
12 your suggestion?

13 THE WITNESS: No.

14 THE COURT: Did Ms. Clement or anyone from her office
15 suggest that you not speak to the Emeritus investigator that
16 came to your home?

17 THE WITNESS: No.

18 THE COURT: Did Ms. Clement or anyone from her office,
19 um, inform you that you did not need to speak with the
20 investigator?

21 THE WITNESS: No.

22 THE COURT: Let's go back to the checklist in her
23 personnel file in Exhibit 91.

24 MS. CLEMENT: Page 26, Erik.

25 THE COURT: And could we bring that up, please? The
26 whole thing, just make it bigger if you can. Okay.

27 Executive director -- this juror wants us to go
28 through this step by step. The executive director, the

1 initials, um, are whose, if you know?

2 THE WITNESS: That initial would be Nancy Cordova.

3 THE COURT: And the date that allegedly you received
4 whatever information supposedly you received would be what,
5 according to this?

6 THE WITNESS: A Saturday.

7 THE COURT: Okay. What's the date?

8 THE WITNESS: July 19th, 2008.

9 THE COURT: What year?

10 THE WITNESS: 2008.

11 THE COURT: Do you know when Nancy Cordova stopped
12 working for Emeritus?

13 THE WITNESS: She stopped working in -- at the end of
14 December, I believe.

15 THE COURT: Of what year?

16 THE WITNESS: 2008.

17 THE COURT: Okay. Could we go down now to the
18 resident director?

19 Whose initials would "PS" be?

20 THE WITNESS: That would be Peggy Stevenson.

21 THE COURT: Okay. And what date does it say that she
22 allegedly went through this with you?

23 THE WITNESS: Um, July 19th, 2008.

24 THE COURT: And if you know, when was
25 Ms. Stevenson's -- when did Ms. Stevenson leave Emeritus?

26 THE WITNESS: Um, I believe shortly before my
27 departure. So I believe it was in 2009, but I don't know
28 the exact month or date.

1 THE COURT: So your departure was when?

2 THE WITNESS: Um, April 30th, 2009.

3 THE COURT: Okay. Go down farther, please. Okay.

4 The SCU program manager slash director, do you know
5 what "AP" might stand for?

6 THE WITNESS: Alicia Parga.

7 THE COURT: Okay. What was the date that Ms. Parga
8 supposedly met with you?

9 THE WITNESS: Same date; July 19th, 2008.

10 THE COURT: And if you know, when did Ms. Parga leave
11 Emeritus?

12 THE WITNESS: I believe she went on maternity leave
13 in -- I know it was 2009 and it was before my departure. I
14 think maybe March or April. I don't -- I don't recall.

15 THE COURT: Okay. The maintenance director overview
16 of emergency preparedness there is some initials there,
17 "CG". Do you know who that might be?

18 THE WITNESS: Chris Garibaldi.

19 THE COURT: And what was the date that you -- that
20 this document indicates that you met with that person?

21 THE WITNESS: July 19th, 2008.

22 THE COURT: And, um, is that person still -- well, was
23 that person employed at Emeritus Emerald Hills on that date?

24 THE WITNESS: Yes.

25 THE COURT: Let's go to the top right-hand column,
26 please. Business officer director, um, do you know whose
27 initials "JB" might be?

28 THE WITNESS: Her name is Jessica -- I don't remember

1 her last name.

2 THE COURT: Okay. Do you know whether or not she was
3 employed on July 19th, 2008?

4 THE WITNESS: Yeah, she was.

5 THE COURT: Okay. Let's go down, please.

6 The dining services director, do you know what "MM"
7 stands for?

8 THE WITNESS: Um, I believe his name was Mike Miller.

9 THE COURT: And, um, the date that is indicated, do
10 you know if that person was still employed with Emeritus on
11 that date?

12 THE WITNESS: Um, is that 7/19/08? Yes.

13 THE COURT: Okay. Go down to the marketing director.
14 What are those initials stand for -- or who do those
15 initials stand for, if you know?

16 THE WITNESS: I'm assuming it's Melissa Malek.

17 THE COURT: Okay. And, if you know, was she still
18 employed there on the date indicated, which looks to be July
19 17th, 2008?

20 THE WITNESS: Yes, she was.

21 THE COURT: Okay. Then go down to the department
22 specific orientation. Do you know whose initials appear
23 there?

24 THE WITNESS: I think that's Nancy Cordova.

25 THE COURT: Okay. And, um, was she employed as of
26 July 18th, 2009, it looks like?

27 THE WITNESS: No.

28 THE COURT: Okay. All right. We can take that down.

1 MS. CLEMENT: Excuse me.

2 THE COURT: With respect to respite or temporary stay
3 at the facility, do you know whether or not the facility
4 required a 602 form prior to such a stay?

5 THE WITNESS: I don't remember. I would image they
6 would, but I don't remember. I only had one, and she did
7 not last the whole night.

8 THE COURT: Ms. Clement, do you wish to follow-up?

9 FURTHER REDIRECT EXAMINATION

10 BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of
11 the Plaintiffs:

12 Q Why didn't that resident last the whole night on the
13 respite?

14 A Um, her family --

15 MR. REID: I'm going to object. It's relevance, 352.

16 THE COURT: Sustained. Let's go on.

17 MS. CLEMENT: That's it.

18 THE COURT: Mr. Reid?

19 MR. REID: Yes. Very quickly.

20 FURTHER RECROSS-EXAMINATION

21 BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the
22 Defendant:

23 Q I wanted to follow-up on the question about, um,
24 communications about the nurse, the availability of the
25 nurse, okay?

26 A Uh-huh.

27 MR. REID: Could I very quickly show the jury Exhibit
28 178, page 10, your Honor?

1 THE COURT: Is this one of the documents we went over?

2 MS. CLEMENT: No.

3 MR. REID: No. It's --

4 MS. CLEMENT: Exceeds the scope, your Honor.

5 MR. REID: This is to refresh her -- to talk about
6 what she had told families about nurse availability in
7 response to the juror's questions.

8 THE COURT: Okay. You can put it up.

9 MR. REID: Thank you.

10 Q (By MR. REID) I'm going to -- we went over this
11 yesterday. My recollection is you said that you wouldn't
12 make -- you wouldn't make representations different than
13 what was on this form, correct?

14 A Correct. I followed the script.

15 Q Okay. And can you read there on the second-to-last
16 bullet point about the -- what it says about the nurse?

17 A Licensed nurse on staff to monitor and coordinate care
18 needs.

19 MR. REID: Okay. Thank you. That is all I had, your
20 Honor. Thanks very much.

21 MS. CLEMENT: No questions.

22 THE COURT: Ladies and gentlemen, I think we are done
23 with this witness as well. You'll notice that I'm sort of
24 just leaving it to one round of questions for you to move
25 this case along at this point.

26 May we excuse this witness?

27 MS. CLEMENT: Yes, we may.

28 MR. REID: Yes, your Honor.

1 THE COURT: Thank you very much. You're excused.

2 THE WITNESS: Thank you, your Honor.

3 Do I need to put these documents --

4 THE COURT: No. We will take care of it. Thank you
5 very much.

6 Do we have a live body coming in or is this a
7 videotape?

8 MS. CLEMENT: No. She has been waiting out there this
9 morning, your Honor. Dr. Kathryn Locatell.

10 THE COURT: Okay. We will be able to just get her on
11 basically and say hello.

12 MS. CLEMENT: I think we will be able to do a little
13 more than that.

14 THE COURT: Okay. Let's bring her in.

15 If you could please come forward to our witness stand.
16 When you get there, please, after you put your briefcase
17 down, if you could remain standing, raise your right hand,
18 and face the clerk.

19 THE CLERK: Do you solemnly state that the testimony
20 you are about to give in the cause now pending before this
21 Court will be the truth, the whole truth, and nothing but
22 the truth, so help you God?

23 THE WITNESS: Yes.

24 THE CLERK: Thank you. Please be seated.

25 Please state your name for the record, ma'am, spelling
26 both your first and last name.

27 THE WITNESS: Kathryn Locatell, K-a-t-h-r-y-n
28 L-o-c-a-t-e-l-l.